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TITLE 24

RETIREMENT AND PENSIONS

(CHAPTERS 9-12 IN VOLUME 25B)

CHAPTER.

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CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER.

1. GENERAL PROVISIONS.
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SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 24-1-106. Benefit enhancements.
24-1-107. Recognition of federal retirement programs.

SECTION.

- 24-1-108. Effect of concurrent employment on a member's benefits — Notice.

Effective Dates. Acts 2011, No. 69, § 22: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that a member's purchase of service credit currently provides that a member pay the system yesterday's dollars for the value of today's benefits; that such a valuation is unfair to the members as a whole and

inconsistent with the prudent management of the system's funds and obligations; that the purchase of service credit in the system should be based upon actuarial equivalents; that the purchase of service credit should be paid in a lump sum to the system; that current service purchase accounts remain unpaid and inactive for many years at a time and create an administrative burden and accounting difficulty on the system that can be remedied by the passage of this act; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being neces-

sary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

24-1-106. Benefit enhancements.

(a) No benefit enhancement provided for by §§ 24-2-302, 24-2-306, 24-2-401, 24-2-402, 24-2-501, 24-3-102 [Repealed], 24-3-106 [Repealed], 24-3-201 [Repealed], 24-3-208 [Repealed], 24-3-209 [Repealed], 24-3-301 [Repealed], 24-3-303 [Repealed], 24-3-304 [Repealed], 24-4-101 [Repealed], 24-4-106 [Repealed], 24-4-107 [Repealed], 24-4-301 [Repealed], 24-4-507, 24-4-508, 24-4-510, 24-4-511, 24-4-518 — 24-4-520, 24-4-601, 24-4-608, 24-4-618, 24-4-710, 24-4-745 — 24-4-747, 24-4-801, 24-4-803, 24-5-112, 24-5-119, 24-5-125, 24-5-133, 24-5-204, 24-6-219, 24-6-403 — 24-6-406, 24-6-410, 24-6-411, 24-7-202, 24-7-209, 24-7-301, 24-7-406, 24-7-504 [Repealed], 24-7-603, 24-7-604, 24-7-606, 24-7-607, 24-7-702, 24-7-705, 24-7-706, 24-7-708, 24-7-713(b), 24-7-720, 24-7-727, 24-7-728, 24-7-729, 24-7-1314, 24-7-1315, 24-7-1401 — 24-7-1409, 24-8-223, 24-8-226 — 24-8-228, 24-8-701 — 24-8-717, 24-10-102, 24-10-303, 24-10-504 — 24-10-509, 24-10-602, 24-10-611, 24-10-613, 24-11-425, 24-11-434, 24-11-437, 24-11-438, 24-11-805, 24-11-818, and 24-11-833 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by §§ 24-2-302, 24-2-306, 24-2-401, 24-2-402, 24-2-501, 24-3-102 [Repealed], 24-3-106 [Repealed], 24-3-201 [Repealed], 24-3-208, 24-3-209 [Repealed], 24-3-301 [Repealed], 24-3-303 [Repealed], 24-3-304 [Repealed], 24-4-101 [Repealed], 24-4-106, 24-4-107 [Repealed], 24-4-301 [Repealed], 24-4-507, 24-4-508, 24-4-510, 24-4-511, 24-4-518 — 24-4-520, 24-4-601, 24-4-608, 24-4-618, 24-4-710, 24-4-745 — 24-4-747, 24-4-801, 24-4-803, 24-5-112, 24-5-119, 24-5-125, 24-5-133, 24-5-204, 24-6-219, 24-6-403 — 24-6-406, 24-6-410, 24-6-411, 24-7-202, 24-7-209, 24-7-301, 24-7-406, 24-7-504 [Repealed], 24-7-603, 24-7-604, 24-7-606, 24-7-607, 24-7-702, 24-7-705, 24-7-706, 24-7-708, 24-7-713(b), 24-7-720, 24-7-727, 24-7-728, 24-7-729, 24-7-1314, 24-7-1315, 24-7-1401 — 24-7-1409, 24-8-223, 24-8-226 — 24-8-228, 24-8-701 — 24-8-717, 24-10-102, 24-10-303, 24-10-504 — 24-10-509, 24-10-602, 24-10-611, 24-10-613, 24-11-425, 24-11-434, 24-11-437, 24-11-438, 24-11-805, 24-11-818, and 24-11-833 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

History. Acts 1999, No. 11, § 3; 1999, § 2; 1999, No. 312, § 2; 1999, No. 325, No. 29, § 2; 1999, No. 30, § 2; 1999, No. § 13; 1999, No. 335, § 2; 1999, No. 387, 81, § 3; 1999, No. 104, § 3; 1999, No. 110, § 8; 1999, No. 388, § 2; 1999, No. 395, § 3; 1999, No. 221, § 2; 1999, No. 311, § 3; 1999, No. 396, § 4; 1999, No. 399,

§ 5; 1999, No. 400, § 2; 1999, No. 404, § 3; 1999, No. 903, § 2; 1999, No. 907,
 § 2; 1999, No. 496, § 5; 1999, No. 535, § 3; 1999, No. 955, § 2; 1999, No. 978,
 § 2; 1999, No. 537, § 7; 1999, No. 555, § 3; 1999, No. 1010, § 3; 1999, No. 1067,
 § 13; 1999, No. 627, § 4; 1999, No. 705, § 5; 1999, No. 1070, § 6; 1999, No. 1171,
 § 2; 1999, No. 706, § 2; 1999, No. 710, § 3; 1999, No. 1325, § 9; 1999, No. 1450,
 § 2; 1999, No. 715, § 2; 1999, No. 716, § 3; 1999, No. 1453, § 4; 1999, No. 1455,
 § 3; 1999, No. 863, § 2; 1999, No. 864, § 2; 1999, No. 1458, § 3; 1999, No. 1459,
 § 2; 1999, No. 865, § 7; 1999, No. 866, § 2; 1999, No. 1460, § 2; 1999, No. 1521,
 § 8; 1999, No. 868, § 4; 1999, No. 869, § 2; 1999, No. 1587, § 2; 1999, No. 1590,
 § 2; 1999, No. 870, § 2; 1999, No. 883, § 4; 2003, No. 347, § 2.
 § 2; 1999, No. 884, § 2; 1999, No. 901,

24-1-107. Recognition of federal retirement programs.

(a)(1) The Board of Trustees of the Arkansas Public Employees' Retirement System and the Board of Trustees of the Arkansas Teacher Retirement System shall establish policies and promulgate rules to recognize the service credit for members of the Arkansas Public Employees' Retirement System and the Arkansas Teacher Retirement System earned in the retirement systems of federal government agencies.

(2) A former federal employee who becomes a member of the Arkansas Public Employees' Retirement System or the Arkansas Teacher Retirement System shall receive service credit for the member's service with the federal retirement system as prescribed by the Board of Trustees of the Arkansas Public Employees' Retirement System and the Board of Trustees of the Arkansas Teacher Retirement System.

(b)(1)(A) An active member of the Arkansas Public Employees' Retirement System shall receive credit for the member's federal service upon the payment of the employee and employer contributions prescribed by the Board of Trustees of the Arkansas Public Employees' Retirement System together with interest from the date the federal service began to the date of payment.

(B) An active member of the Arkansas Teacher Retirement System shall receive credit for the member's federal service upon the payment of the cost of service under § 24-7-502(b) and as prescribed by the Board of Trustees of the Arkansas Teacher Retirement System.

(2) The Board of Trustees of the Arkansas Public Employees' Retirement System and the Board of Trustees of the Arkansas Teacher Retirement System shall determine what constitutes a year of federal service credit.

(3) The member may qualify for age and service retirement in the Arkansas Public Employees' Retirement System or the Arkansas Teacher Retirement System using the federal credited service plus the member's credited service from employment from the state employers to meet the minimum service requirements of the Arkansas Public Employees' Retirement System and the Arkansas Teacher Retirement System.

(c) The Board of Trustees of the Arkansas Public Employees' Retirement System and the Board of Trustees of the Arkansas Teacher

Retirement System shall promulgate rules necessary for the effective administration of this section.

(d) The member shall certify in a manner prescribed by the Board of Trustees of the Arkansas Public Employees' Retirement System and the Board of Trustees of the Arkansas Teacher Retirement System that the member is not eligible to receive a retirement benefit from the federal retirement system in which he or she had previously been a member.

History. Acts 2005, No. 2091, § 1; 2011, No. 69, § 1.

Amendments. The 2011 amendment added (b)(1)(B); and, in (b)(1)(A), deleted "or the Arkansas Teacher Retirement Sys-tem" preceding "shall receive credit" and deleted "and the Board of Trustees of the Arkansas Teacher Retirement System" preceding "together with interest."

24-1-108. Effect of concurrent employment on a member's benefits — Notice.

(a) The purpose of this section is to provide notice to an applicant for concurrent employment in a public employee position that the concurrent employment might affect the employee's retirement benefits and to allow the employee and employer an opportunity to consider an alternative method of employment that would allow an enhanced retirement benefit for the prospective employee.

(b) If an applicant for concurrent employment in a public employee position provides information to a prospective public employer that the applicant is a current public employee and is enrolled as a member of a reciprocal system, then the prospective employer shall notify the applicant that it may be in the applicant's best interest to contact his or her current retirement system regarding the legal status of retirement benefits that may result if the applicant is employed by two (2) or more state-supported retirement systems.

(c) The failure of a state-supported retirement system to notify a prospective employee under this section does not create a legal obligation on behalf of the state-supported retirement system or a legal right on behalf of the prospective employee.

History. Acts 2009, No. 1280, § 1.

SUBCHAPTER 2 — PUBLIC EMPLOYEES' SOCIAL SECURITY

SECTION.

- 24-1-201. Declaration of policy.
- 24-1-202. Definitions.
- 24-1-203. Rules and regulations.
- 24-1-204. Agreements with federal government and other states.
- 24-1-205. Plans for employees of political subdivisions.

SECTION.

- 24-1-206. Agents.
- 24-1-207. Contributions — State employees.
- 24-1-208. Contributions — Employees of political subdivisions.
- 24-1-209 — 24-1-212. [Repealed.]
- 24-1-213. Studies and reports.

24-1-201. Declaration of policy.

In order to extend to employees of the State of Arkansas and its political subdivisions and the employees' dependents and survivors the basic protection accorded to others by the federal old age, survivors' and disability insurance, and health insurance coverage embodied in the Social Security Act, it is declared to be the policy of the State of Arkansas, subject to the limitations of this subchapter, that steps be taken to provide protection to employees of the state and its political subdivisions in compliance with the provisions of the Social Security Act.

History. Acts 1951, No. 248, § 1; A.S.A. referred to in this section, is codified as 42 1947, § 12-2401; Acts 2005, No. 100, § 1. U.S.C. § 301 et seq.

U.S. Code. The Social Security Act,

24-1-202. Definitions.

As used in this subchapter:

(1) "Commissioner of Social Security" means any individual to whom the commissioner has delegated any of his or her functions under the Social Security Act with respect to coverage under that act of employees of the state and its political subdivisions;

(2) "Employee" means an officer or an employee of the state or a political subdivision of the state. All public employees of the State of Arkansas and its political subdivisions, for social security purposes, shall be deemed employees of the paying political entity for which services are rendered, which entity shall be the proper agency for making the deductions, matching contributions, and report required by this subchapter;

(3) "Employer" means the State of Arkansas and its political subdivisions;

(4) "Employment" means any service performed by an employee in the employ of the state or any political subdivision of the state for his or her employer except:

(A) Services which, in the absence of any agreement entered into under this subchapter, would constitute employment as defined in the Social Security Act; or

(B) Services which, under applicable federal law, may not be included or may have been voluntarily excluded in an agreement between the state and the commissioner entered into under this subchapter;

(5) "Modification" means an amendment to the original federal-state agreement to extend coverage to groups of additional employee classifications consistent with the provisions of section 218 of the Social Security Act and this subchapter;

(6) "Political subdivision" means an instrumentality of the state, of one (1) or more of its political subdivisions, or of the state and one (1) or more of its political subdivisions, but only if its instrumentality is a juristic entity which is legally separate and distinct from the state or

subdivision and only if its employees are not, by virtue of their relation to the juristic entity, employees of the state or subdivision;

(7) "Section 218 agreement" means the federal-state agreement between the commissioner and the State of Arkansas entered into December 20, 1951, as authorized by the Social Security Enabling Act for the purpose of extending coverage under Title II of the Social Security Act;

(8) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act", as amended, including regulations and requirements issued pursuant thereto;

(9) "State agency" means the Arkansas Public Employees' Retirement System; and

(10) "Wages" means all remuneration for employment as defined in subdivision (4) of this section, including the cash value of all remuneration paid in any medium other than cash.

History. Acts 1951, No. 248, § 2; 1959, 1947, §§12-2402, 12-2418; Acts 1999, No. 237, § 1; 1965, No. 154, § 1; A.S.A. 22, § 1; 2005, No. 100, § 1.

24-1-203. Rules and regulations.

The Arkansas Public Employees' Retirement System shall make and publish rules and regulations not inconsistent with the provisions of this subchapter it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this subchapter.

History. Acts 1951, No. 248, § 10; A.S.A. 1947, § 12-2410; Acts 2005, No. 100, § 1.

24-1-204. Agreements with federal government and other states.

(a) The Arkansas Public Employees' Retirement System is authorized to enter, on behalf of the state, into a Section 218 agreement consistent with the terms and provisions of this subchapter, with the Commissioner of Social Security for the purpose of extending the benefits of the federal old age, survivors' and disability insurance, and health insurance coverage to employees of the state, or any political subdivision of the state, with respect to services specified in the agreement which constitute employment as defined in § 24-1-202. This agreement may contain provisions relating to coverage, benefits, effective date, modification of the agreement, administration, and such other matters as the system and the commissioner shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, the agreement shall provide, in effect, that:

(1) Benefits will be provided for employees whose services are covered by the agreement, as well as for their dependents and survivors, on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(2) The employer shall pay to the Internal Revenue Service, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in § 24-1-202, equal to the sum of the taxes levied by that act;

(3) All services which constitute employment as defined in § 24-1-202 and are performed in the employ of the state by employees of the state shall be covered by the agreement; and

(4) All services shall be covered by the agreement which:

(A) Constitute employment as defined in § 24-1-202;

(B) Are performed in the employ of a political subdivision of the state; and

(C) Are covered by a plan which is in conformity with the terms of the agreement and has been approved by the system under § 24-1-205.

(b) The system is authorized to enter, on behalf of the state, into an agreement with the appropriate agency or agencies of any other state and with the commissioner, whereby the benefits of the federal old age, survivors' and disability insurance, and health insurance coverage shall be extended to employees of any instrumentality jointly created by this state and any other state or states. To the extent practicable, the agreement shall be consistent with the terms and provisions of subsection (a) of this section and other provisions of this subchapter.

History. Acts 1951, No. 248, § 3; 1953, No. 410, § 1; A.S.A. 1947, § 12-2403; Acts 2005, No. 100, § 1.

24-1-205. Plans for employees of political subdivisions.

Each political subdivision of the state is authorized to submit for approval by the Arkansas Public Employees' Retirement System a plan for extending the benefits of Title II of the Social Security Act, in conformity with the applicable provisions of that act, to employees of the political subdivisions. Each plan, and any amendment to it, shall be approved by the system if it finds that the plan, or plan as amended, is in conformity with such requirements as are provided in regulations of the system, except that no plan shall be approved unless:

(1) It is in conformity with the requirements of the Social Security Act and with the agreement entered into under § 24-1-204;

(2) It provides that all services which constitute employment as defined in § 24-1-202 and are performed by the employees of a political subdivision shall be covered by the plan;

(3) It specifies the sources from which the funds necessary to make the payments required by §§ 24-1-208(a)(1) and 24-1-208(b) are ex-

pected to be derived and contains reasonable assurance that the sources will be adequate for that purpose;

(4) It provides for methods of administration of the plan by the political subdivision as are found by the system to be necessary for the proper and efficient administration of the plan; and

(5) It provides that the political subdivision shall make reports in such form and containing such information as the system may require and shall comply with the provisions as the system or the Commissioner of Social Security may find necessary from time to time to assure the correctness and verification of reports.

History. Acts 1951, No. 248, § 5; A.S.A. 1947, § 12-2405; Acts 2005, No. 100, § 1.

24-1-206. Agents.

(a) For the purpose of entering into agreements with the Arkansas Public Employees' Retirement System, the following named officers are authorized and empowered to make the agreement on behalf of their agency or political subdivision:

(1)(A)(i) The board of control of each state institution or agency having a board or the administrative head of each state department.

(ii) The board of control shall have authority to designate an agent to represent the agency over which it has control.

(B) In the case of state agencies which do not have a board of control, the chief administrative officer shall act as the contracting officer for the agency;

(2) The county judge of each county entering into an agreement with the system shall make and enter of record a county court order approving the agreement with the system and shall designate the county clerk as the agent of the county to deal with the system;

(3) The city council of each municipality is authorized to approve the agreement with the system and shall adopt an ordinance designating the city clerk or recorder to represent the municipality; and

(4) The board of directors of each school district shall have authority to approve the agreement with the system and shall designate the county school supervisor or the local superintendent of each school district to deal with the system.

(b) In complying with the provisions of this subchapter, each political subdivision which qualifies to participate in the social security plan shall be required as a part of its agreement with the system to designate an agent to represent the political subdivision in all matters affecting the administration of the plan.

(c) All agents provided for under the provisions of this subchapter who represent the state or a local subdivision in connection with the enforcement of this subchapter shall receive no additional remuneration or emolument of their offices in connection with the administration of this subchapter.

History. Acts 1951, No. 248, §§ 7, 9, 10; A.S.A. 1947, §§ 12-2407, 12-2409, 12-2410; Acts 2005, No. 100, § 1.

24-1-207. Contributions — State employees.

(a) Every employee of the state whose service is covered by an agreement entered into under § 24-1-204 shall be required to pay contributions, for the period of the coverage, with respect to wages as defined in § 24-1-202, equal to the amount of tax levied under the Social Security Act. This liability shall arise in consideration of the employee's retention in the service of the state, or his or her entry upon such service.

(b) The contributions imposed by this section shall be collected by deducting the amount of the contributions from wages as and when paid, but failure to make the deduction shall not relieve the employee from liability for his or her contributions.

(c) If more or less than the correct amount of the contributions imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or a refund if an adjustment is impracticable, shall be made, without interest, in such manner and at such times as the Arkansas Public Employees' Retirement System shall prescribe.

History. Acts 1951, No. 248, § 4; A.S.A. 1947, § 12-2404; Acts 2005, No. 100, § 1.

24-1-208. Contributions — Employees of political subdivisions.

(a)(1) Each political subdivision as to which a plan has been approved under § 24-1-205, with respect to wages as defined in § 24-1-202 and at such time or times as the Arkansas Public Employees' Retirement System may by regulation prescribe, shall pay contributions in the amounts and at the rates specified in the applicable agreement entered into by the system under § 24-1-204.

(2)(A)(i) Each political subdivision required to make payments under subdivision (a)(1) of this section, in consideration of the employee's retention in, or entry upon, employment, is authorized to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to the employee's wages as defined in § 24-1-202.

(ii) This amount shall not exceed the amount of tax which would be imposed by the Social Security Act.

(B) The political subdivision is authorized to deduct the amount of the contribution from the employee's wages as and when paid.

(C) Failure to deduct the contribution shall not relieve the employee or employer of liability for the payments.

(b) Delinquent payments due under subdivision (a)(1) of this section may be recovered with interest at the rate of six percent (6%) per annum by an action in a court of competent jurisdiction against the

political subdivision liable for the payments or at the request of the system, may be deducted from any other moneys payable to the subdivision by any department or agency of the state.

History. Acts 1951, No. 248, § 5; A.S.A. 1947, § 12-2405; Acts 2005, No. 100, § 1.

24-1-209 — 24-1-212. [Repealed.]

Publisher's Notes. These sections, concerning matching contributions and contribution funds, were repealed by Acts 2005, No. 100, § 1. The sections were derived from the following sources:

24-1-209. Acts 1951, No. 248, §§ 8, 14; A.S.A. 1947, §§ 12-2408, 12-2414.

24-1-210. Acts 1951, No. 248, § 6; A.S.A. 1947, § 12-2406.

24-1-211. Acts 1951, No. 248, § 6; 1968 (1st Ex. Sess.), No. 56, § 1; 1979, No. 724, § 1; A.S.A. 1947, § 12-2406.

24-1-212. Acts 1951, No. 248, §§ 12, 13; A.S.A. 1947, §§ 12-2412, 12-2413.

24-1-213. Studies and reports.

(a) The Arkansas Public Employees' Retirement System shall make studies concerning the problem of old age, survivors' and disability insurance, and health insurance protection for employees of the state and its political subdivisions and studies concerning the operation of agreements made and plans approved under this subchapter.

(b) The system shall submit a report at the beginning of each regular session covering the administration and operation of this subchapter during the preceding two (2) fiscal years and including such recommendations and amendments to this subchapter as it considers proper.

History. Acts 1951, No. 248, § 11; A.S.A. 1947, § 12-2411; Acts 2005, No. 100, § 1; 2009, No. 962, § 42.

CHAPTER 2

PUBLIC EMPLOYEE RETIREMENT PLANS

GENERALLY

SUBCHAPTER.

3. CORRECTION OF ERRONEOUS MEMBERSHIPS.
4. RECIPROCAL SERVICE CREDITS.
5. MILITARY SERVICE CREDIT.
6. STATE RETIREMENT SYSTEMS INVESTMENTS.
7. ARKANSAS PUBLIC EMPLOYEE RETIREMENT PLANS.

SUBCHAPTER 3 — CORRECTION OF ERRONEOUS MEMBERSHIPS

SECTION.

- 24-2-302. Classification of members.
- 24-2-303. Erroneous enrollment before January 1, 1979.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 146, § 4: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System are unclear regarding certain eligibility and benefit requirements; that revisions are necessary to

ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 2190, § 24: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the services of the county boards of education are no longer needed by the school districts; that there will be no funding available for the operation of the county boards of education; and that this act is immediately necessary because county boards of education need sufficient authority to transfer functions, duties, and records prior the end of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-2-302. Classification of members.

Except as otherwise specifically provided in this subchapter, all employees of the State of Arkansas or any of its political subdivisions who are members or become members of a state retirement system shall be members of the retirement system indicated in this section as follows:

(1) All eligible employees of the Arkansas State Highway and Transportation Department shall be members of the Arkansas State Highway Employees' Retirement System;

(2) All eligible employees of the Department of Arkansas State Police shall be members of the State Police Retirement System;

(3) The following persons shall be members of the Arkansas Teacher Retirement System:

(A) Any person employed by a school for the purpose of giving instruction and whose employment requires state certification;

(B) Any other person employed by a school in a regular or special position;

(C) Any person employed by any of the following organizations or agencies:

- (i) Arkansas School for the Blind;
- (ii) Arkansas School for the Deaf;
- (iii) Arkansas Activities Association;
- (iv) A local school board;
- (v) State Board of Education;
- (vi) Regional education service cooperatives; and
- (vii) Arkansas Teacher Retirement System;

(D) Any person employed in a position requiring professional training or certification with an area vocational-technical school or employed by the Arkansas Educational Television Commission, except that employees of area vocational-technical schools and the Department of Career Education who have elected to participate in an alternate retirement plan established by §§ 24-7-901 and 24-7-903 — 24-7-908 shall be active members of the alternate retirement plan;

(E)(i) Any person employed in a position requiring professional training or certification with the Arkansas Rehabilitation Services of the Department of Career Education, the Division of State Services for the Blind of the Department of Human Services, or the Division of Youth Services of the Department of Human Services except those employees who have elected coverage under § 24-4-101 et seq.

(ii) Membership of employees of the Arkansas Rehabilitation Services and the Division of State Services for the Blind shall be subject to the following conditions:

(a) Those employees who were employed before January 1, 1985, and who were members of the Arkansas Teacher Retirement System on that date shall continue to be members of the Arkansas Teacher Retirement System, except that in the event the time limit for those employees to change to the noncontributory plan of the Arkansas Public Employees' Retirement System under § 24-4-522 is extended beyond January 1, 1985, those employees shall have the maximum time allowed by law to elect to make the change;

(b) Those employees who were employed before January 1, 1985, and who are members of the noncontributory plan of the Arkansas Public Employees' Retirement System on that date shall continue to be members of the Arkansas Public Employees' Retirement System; and

(c) Persons whose initial employment by either the Arkansas Rehabilitation Services or the Division of State Services for the Blind is on or after January 1, 1985, shall be members of the noncontributory plan of the Arkansas Public Employees' Retirement System; and

(4) All eligible employees of the State of Arkansas or any of its political subdivisions except those who are members of another legally established state retirement plan shall be members of the Arkansas Public Employees' Retirement System.

History. Acts 1973, No. 667, § 2; 1979, No. 576, § 2; 1985, No. 790, § 1; A.S.A. 1947, § 12-2572; Acts 1999, No. 325, § 1; 2001, No. 151, § 1; 2005, No. 146, § 1; 2005, No. 2190, § 22; 2007, No. 617, § 43.

Amendments. The 2007 amendment substituted “education service cooperatives” for “educational cooperatives” in (3)(C)(vi).

24-2-303. Erroneous enrollment before January 1, 1979.

- (a) Any employee who was erroneously enrolled in a state retirement system before January 1, 1979, and whose contributions have not been refunded prior to March 26, 1979, shall continue to be a member of the retirement system of record.

(b) The member shall receive service credit for all paid membership service in the retirement system, shall be entitled to any free service which was credited to the member prior to March 26, 1979, or which is creditable to the member under existing laws, and shall also be entitled to reciprocal service credits as provided by §§ 24-2-401 — 24-2-405 and § 24-2-407.

History. Acts 1973, No. 667, § 3; 1979, No. 576, § 3; A.S.A. 1947, § 12-2573; Acts 2001, No. 151, § 2.

SUBCHAPTER 4 — RECIPROCAL SERVICE CREDITS

- SECTION.

24-2-401. Definitions.

24-2-402. Deferred annuity — Eligibility.

24-2-403. Date of annuity payment.

- SECTION.

24-2-405. Disability benefits.

24-2-408. Concurrence prohibited.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-2-401 — 24-2-405 may not apply to § 24-2-407 and § 24-2-408 which were enacted subsequently.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: “It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is nei-

ther approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2005, No. 1022, § 18: Mar. 18, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas District Judge Retirement System that this act should become effective immediately. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of

the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2005, No. 1962, § 120: Apr. 11, 2005. Emergency clause provided: “Uncodified Section 18 of Act 1022 of 2005 is amended to read as follows: It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas District Judge Retirement System that this act should become effective immediately. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 177, § 15: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this bill affects the structure of the Arkansas District Judge Retirement System and the Arkansas Public Employees’ Retirement System and the ideal time to make revisions to the retirement systems is at the beginning of the state’s fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall become effective on July 1, 2007.

24-2-401. Definitions.

As used in this subchapter:

(1) “Deferred retirement option plan” means an option for retirement under a reciprocal system whereby the retirement system members, in lieu of terminating employment, can continue with employment with covered employers and can accept a service retirement benefit pursuant to deferred retirement option plan provisions in § 24-7-1301 et seq. for the Arkansas Teacher Retirement System or for any other deferred retirement option plan which might be created by, or authorized for creation by, law under a reciprocal system;

(2) “Public safety service covered by the Arkansas Public Employees’ Retirement System” means service as a public safety member as defined in § 24-4-101(34);

(3) “Reciprocal system” means:

(A) The Arkansas Teacher Retirement System in operation June 30, 1957, and continued by §§ 24-7-202 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-606, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716;

(B) The Arkansas State Highway Employees’ Retirement System, established by § 24-5-103;

(C) The Arkansas Public Employees’ Retirement System, established by § 24-4-103;

(D) The State Police Retirement System, established by § 24-6-203;

(E) The Arkansas Judicial Retirement System, established by § 24-8-201 et seq.;

(F) An alternate retirement plan for:

(i) A college, university, or the Department of Higher Education provided for under § 24-7-801 et seq.; or

(ii) A vocational-technical school or the Department of Career Education provided for under § 24-7-901 et seq.; or

(G) The Arkansas Local Police and Fire Retirement System provided for under § 24-10-101 et seq.; and

(4) “State employer” means:

(A) The public employer whose employees are covered under:

(i) The Arkansas Teacher Retirement System;

(ii) The Arkansas State Highway Employees’ Retirement System;

(iii) The Arkansas Public Employees’ Retirement System; or

(iv) The State Police Retirement System;

(B) The public employer whose employees are circuit court judges, judges of the Court of Appeals, and justices of the Supreme Court, whether elected or appointed to office, covered under the Arkansas Judicial Retirement System;

(C) The public employer whose employees are district court judges, whether elected or appointed to office, covered under the Arkansas Public Employees’ Retirement System; or

(D) A public employer who is:

(i) A college, university, or the Department of Higher Education whose employees are covered by an alternate retirement plan provided for under § 24-7-801 et seq.; or

(ii) A vocational-technical school or the Department of Career Education whose employees are covered by an alternate retirement plan provided for under § 24-7-901 et seq.

History. Acts 1965, No. 488, § 1; 1975, No. 611, § 1; 1981, No. 483, § 2; A.S.A. 1947, § 12-2537; Acts 1987, No. 357, § 2; 1995, No. 949, § 1; 1997, No. 485, § 1; 1997, No. 857, § 1; 1997, No. 927, § 1; 1999, No. 537, § 1; 2001, No. 151, § 3; 2005, No. 1022, § 1; 2007, No. 177, §§ 6, 7; 2011, No. 978, § 1.

Amendments. The 2007 amendment deleted (3)(F), which read “The Arkansas

District Judge Retirement System, established by § 24-8-801 et seq.,” and redesignated the following subdivisions accordingly; and substituted “the Arkansas Public Employees’ Retirement System” for “the Arkansas District Judge Retirement System” in (4)(C).

The 2011 amendment deleted “and by a person who was employed prior to July 1, 1997” at the end of (2).

24-2-402. Deferred annuity — Eligibility.

If a member of a reciprocal system left or leaves a position covered by a reciprocal system, if an employee in a position covered by a reciprocal system left the employ of a state employer before the latter position was covered by a reciprocal system, or if an employee in a position later covered by a reciprocal system leaves that position before it is covered by a reciprocal system, which in this section in each case is called the “preceding system”, and if that person entered or enters a position covered by a reciprocal system, which in this section is called the “succeeding system”, and if the person is a member of the succeeding

system after July 1, 1975, then the person shall be entitled to a deferred annuity payable by the preceding system subject to the following conditions:

(1) The person has credited service acquired in the employ of the preceding state employer;

(2)(A) The person does not withdraw his or her accumulated contributions from the preceding reciprocal system, or if he or she has withdrawn his or her accumulated contributions, he or she deposits with the preceding reciprocal system the amount he or she withdrew, together with interest from the date of withdrawal to the date of repayment at the rate in effect for the preceding reciprocal system, but that deposit must be made while he or she is an active member of a reciprocal system.

(B) In addition to the forfeited credited service, the active member of a reciprocal system shall receive credit for his or her previous employment with a public employer upon his or her paying the prescribed employee and employer contributions based upon the rate in effect during the previous employment, together with regular interest from the dates for the previous service to the date of repayment.

(C) The provisions for determining a year of service credit shall be the prevailing regulations of each reciprocal system;

(3) The person qualifies for age and service retirement in the succeeding reciprocal system using his or her credited service in force with the preceding reciprocal system plus his or her credited service acquired in the employ of succeeding state employers to meet the minimum service requirements of the succeeding systems;

(4)(A) The person's annuity payable by the preceding reciprocal system shall be upon the basis of the annuity formula of the preceding reciprocal system, exclusive of any minimum amount at the time the person begins to receive monthly retirement benefits from that system.

(B) The final average compensation to be used to determine monthly benefits payable to that person shall be that of the reciprocal system which furnishes the highest final average compensation at the time of retirement, but each reciprocal system shall use the method of computing final average compensation stipulated by its law, and compensation in the Arkansas Judicial Retirement System shall not be used to determine final average compensation.

(C) Any person retiring on or after July 1, 1982, with credited service in more than one (1) reciprocal system shall have his or her benefits recomputed based on the provisions of this section;

(5)(A) It is the expressed intention of this subdivision (5) to provide the same death-in-service benefits that would have been payable had the member died while an active member of a reciprocal retirement system.

(B) A member who dies in service while a member of one (1) reciprocal system shall be considered as currently employed by all systems in which the member retains credited service.

(C) If a member has accrued credited service under the provisions of this subchapter but dies before retirement or before becoming eligible to retire, then the benefits payable shall be those provided by the reciprocal retirement system named in this subchapter, with each system being responsible for the payment of the death-in-service benefits provided by the applicable provisions of its retirement laws.

(D) If death-in-service benefits are payable by more than one (1) reciprocal system to eligible survivors of a deceased member, the survivors shall not receive more, as a percentage of the deceased member's final pay or as a minimum dollar amount, than the largest amount payable by any single reciprocal system.

(E) Each reciprocal system that has a minimum benefit provision in its plan shall pay only a proportionate share of that minimum amount based on the ratio of service in that system to the total service in all reciprocal systems.

(F) If the reciprocal system is an alternate retirement plan under § 24-7-801 et seq. or § 24-7-901 et seq., death-in-service benefits shall be contingent on provision of that benefit having been provided by the alternate retirement plan and having been selected by the member as a benefit;

(6) Both service in the Arkansas Public Employees' Retirement System as a member of the General Assembly and service in another reciprocal system during the same period of time may be counted to meet the service requirements for benefits from the reciprocal system subject to the following:

(A) The benefit payable by a reciprocal system will be based on the credited service in that system and the final average compensation under that system. However, nothing in this subdivision (6)(A) shall diminish the General Assembly member's right to a benefit for which the person is qualified under the provisions of § 24-4-706; and

(B)(i) "Final average compensation" as used in this section means the combined highest salaries from the preceding and succeeding systems equaling thirty-six (36) complete months divided by three (3) if a member has:

(a) Fewer than twenty (20) years of credited service on July 1, 2009; and

(b) Fewer than three (3) years of service in a succeeding reciprocal system.

(ii) If the member is a state police officer covered under § 24-6-401 et seq., the combined salaries shall be from the preceding system and State Police Retirement System equaling forty-eight (48) months divided by four (4).

(7)(A) If the preceding or succeeding reciprocal system is the Arkansas Judicial Retirement System and the member's benefits are determined under § 24-8-201 et seq., the benefit payable by the Arkansas Judicial Retirement System shall be determined by multiplying the benefit provided by § 24-8-218 by the following fraction:

(i) The numerator shall be the number of the actual years of service credited in the Arkansas Judicial Retirement System as a

justice of the Supreme Court or judge of the circuit or chancery courts or the Court of Appeals; and

(ii) The denominator shall be fourteen (14) years.

(B) In no instance shall the benefit payable by the Arkansas Judicial Retirement System exceed the benefit provided by § 24-8-218;

(8)(A)(i) If the preceding or succeeding reciprocal system offers a deferred retirement option plan for its members, both service in the preceding and the succeeding reciprocal system may be counted to meet the minimum service credit requirements for benefits under a system's deferred retirement option plan.

(ii) The benefit payable by the preceding reciprocal system shall be based on the annuity formula of the preceding reciprocal system, exclusive of any minimum amount at the time the person begins to receive monthly retirement benefits from that system under its deferred retirement option provisions.

(iii) The final average compensation to be used to determine monthly benefits payable to that person shall be that of the reciprocal system which furnishes the highest final average compensation at the time of retirement, but each reciprocal system shall use the method of computing final average compensation stipulated by its law, and compensation in the Arkansas Judicial Retirement System shall not be used to determine final average compensation.

(iv) Any interest credited to the deferred retirement account will be paid to the member's account under the deferred retirement option benefit program in effect for that system.

(B) The boards of trustees of each preceding or succeeding system shall promulgate such rules and regulations as are necessary to coordinate their benefits with any system providing a deferred retirement option plan; and

(9) If the preceding or succeeding reciprocal system is an alternate retirement plan for a college, university, or the Department of Higher Education provided for under § 24-7-801 et seq., or for a vocational-technical school or the Department of Career Education provided for under § 24-7-901 et seq., the benefits payable shall be in accordance with terms specified in the written alternate retirement plan document for purchasing the insurance policies or annuity contracts, both fixed and variable in nature, for the participants.

History. Acts 1965, No. 488, § 2; 1967, No. 310, § 1; 1971, No. 579, §§ 1, 2; 1975, No. 611, § 2; 1977, No. 663, § 5; 1979, No. 127, § 1; 1979, No. 493, § 1; 1979, No. 821, § 4; 1983, No. 679, §§ 1, 2; A.S.A. 1947, § 12-2538; Acts 1987, No. 357, § 3; 1987, No. 737, § 1; 1991, No. 381, § 1; 1995, No. 949, § 2; 1997, No. 485, § 2; 1997, No. 857, § 2; 1997, No. 927, § 2;

1999, No. 537, §§ 2, 5; 2001, No. 151, § 4; 2005, No. 1022, §§ 2, 3; 2007, No. 177, §§ 8, 9; 2009, No. 742, § 1.

Amendments. The 2007 amendment deleted "or the Arkansas District Judge Retirement System" following "the Arkansas Judicial Retirement System" in (4)(B) and (8)(A)(iii).

The 2009 amendment rewrote (6)(B).

24-2-403. Date of annuity payment.

- (a) The date a member’s annuity, if any, becomes payable by each reciprocal system shall be determined by those provisions in force for each reciprocal system.
- (b) In no case shall any annuity become payable nor be paid prior to the date the member retires from, and ceases to be, in the employ of an employer covered by a reciprocal system as defined in § 24-2-401(3).

History. Acts 1965, No. 488, § 4; 1975, No. 611, § 4; A.S.A. 1947, § 12-2540; Acts 2001, No. 151, § 5.

24-2-405. Disability benefits.

- (a) A member of a reciprocal system with five (5) or more years of credited service in two (2) or more reciprocal systems shall be eligible to apply for disability benefits from each reciprocal system in which he or she has credited service.
- (b) Each reciprocal system shall make the determination under its respective rules and regulations as to whether the member is eligible for disability benefits.
- (c) The member shall be eligible for a refund of his or her accumulated contributions plus interest, if any, from any reciprocal system in which he or she does not qualify for disability benefits. This refund shall not alter his or her eligibility for benefits from any other reciprocal system.

History. Acts 1965, No. 488, § 3; 1971, No. 579, § 3; 1975, No. 611, § 3; A.S.A. 1947, § 12-2539; Acts 2001, No. 151, § 6.

24-2-408. Concurrence prohibited.

In establishing credited service under § 24-2-401 et seq., persons who receive credited service pursuant to § 24-4-101(17)(B)(xiii) for dual full-time employment in the Arkansas Public Employees’ Retirement System and the Arkansas Local Police and Fire Retirement System under the provisions of this act may count periods of credited service covering the same calendar time only once.

History. Acts 2001, No. 764, § 2.	enacted subsequently.
A.C.R.C. Notes. References to “this subchapter” in §§ 24-2-401 — 24-2-407 may not apply to this section which was	Meaning of “this act”. Acts 2001, No. 764, is codified as §§ 24-4-401 and 24-2-408.

SUBCHAPTER 5 — MILITARY SERVICE CREDIT

SECTION.	SECTION.
24-2-502. Purchased credited service.	armed forces reserve service credit.
24-2-503. Arkansas National Guard and	

SECTION.

24-2-504. Return to covered employment by military personnel.

24-2-505. Compliance with the Heroes

Earnings Assistance and Relief Tax Act of 2008.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2007, No. 177, § 15: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this bill affects the structure of the Arkansas District Judge Retirement System and the Arkansas Public Employees' Retirement System and the ideal time to make revisions to the retirement systems is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 295, § 4: Mar. 3, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that many of the citizens of the State of Arkansas are serving our country as active duty military and in the Arkansas National Guard and Armed Forces Reserve; that they should not be penalized for their service to their country; and that current retirement law

does not fully provide for our servicemen and servicewomen as provided for in federal law. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) the date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2011, No. 38, § 11: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the public retirement systems provide economic security for eligible citizens of Arkansas; that the statutes need amending to update and clarify existing law; and that these changes need to be made immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 69, § 22: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that a member's purchase of service credit currently provides that a member pay the system yesterday's dol-

lars for the value of today's benefits; that such a valuation is unfair to the members as a whole and inconsistent with the prudent management of the system's funds and obligations; that the purchase of service credit in the system should be based upon actuarial equivalents; that the purchase of service credit should be paid in a lump sum to the system; that current service purchase accounts remain unpaid and inactive for many years at a time and

create an administrative burden and accounting difficulty on the system that can be remedied by the passage of this act; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

24-2-502. Purchased credited service.

(a) Any person who is or was a member of a state-supported retirement system in this state and who was not receiving benefits under the system on July 9, 1975, shall be entitled to purchase credited service in the system for a period not to exceed five (5) years for service rendered by the member in the armed forces of the United States prior to the member's employment in a position covered by a state-supported retirement system, but only if the person:

- (1) Has five (5) years of actual service with the retirement system;
- (2) Received an honorable discharge from the armed forces; and
- (3)(A) For the first three (3) years of credited service, contributes to the members' deposit account a sum of money equal to the amount he or she would have contributed to the account had he or she been a member during his or her term of military service. This amount shall be based upon his or her monthly contributions at the time he or she first became a member of the retirement system and interest thereon at the rate of six percent (6%), together with an amount equal to the employer's matching contribution and interest thereon at the rate of six percent (6%), which interest shall commence January 1, 1976, or six (6) months after eligibility, whichever is later.

(B) For the fourth and fifth year of credited service, contributes to the members' deposit account a sum of money equal to the amount he or she would have contributed to the account had he or she been a member during his or her term of military service. This amount shall be based upon:

- (i) His or her salary at the time he or she first became a member of the retirement system;
- (ii) The employer's contribution in effect at the time he or she first became eligible to purchase the military service; and
- (iii) Interest thereon on both the employee's and employer's contributions at the rate of six percent (6%), which interest shall commence January 1, 1976, or six (6) months after eligibility, whichever is later.

(b) The benefit program to be applicable to the credited service for members of the Arkansas Public Employees' Retirement System, the

State Police Retirement System, or the Arkansas Teacher Retirement System shall be:

(1) The benefit program of § 24-4-101 et seq. for members of the Arkansas Public Employees' Retirement System;

(2) The benefit program based on § 24-6-101 et seq. for members of the State Police Retirement System; or

(3) The benefit program based on § 24-7-101 et seq. for members of the Arkansas Teacher Retirement System.

(c) The provisions of this section shall be supplemental to any other laws relating to state-supported retirement systems in this state. Nothing in this section shall be construed to repeal or modify any existing provisions of any state-supported retirement system law providing for credited service in the system for military service, nor to diminish the right of any member of a state-supported retirement system to obtain credited service in the system for military service under the provisions of existing laws, but in no event shall any member of a state-supported retirement system be entitled to or receive in excess of five (5) years of credited service for military service rendered by the member. No member shall be eligible for credited military service in more than one (1) state-supported retirement system.

(d) When the applicant can obtain military service credit under this section and also under other laws relating to state-supported retirement systems in this state, then service credit shall be granted under the provisions of the laws in chronological order beginning with the earliest law. However, the laws may not be used to allow duplicate service credit.

History. Acts 1975, No. 573, §§ 1-3; 1985, No. 938, § 8; A.S.A. 1947, §§ 12-2524.4 — 12-2524.6; Acts 1993, No. 1098, § 1; 1995, No. 611, § 1; 1997, No. 1053, § 26; 2001, No. 151, § 7; 2009, No. 295, § 1; 2011, No. 69, § 2.

deleted (a)(3), redesignated the subsequent subdivision accordingly, and made related changes.

The 2011 amendment inserted "or the Arkansas Teacher Retirement System" in the introductory language of (b); and added (b)(3).

Amendments. The 2009 amendment

24-2-503. Arkansas National Guard and armed forces reserve service credit.

(a) As used in this section, "armed forces reserve" means one (1) of the reserve components of the armed forces of the United States.

(b)(1) A member of the Arkansas Public Employees' Retirement System may purchase credited service in the system for a period not to exceed five (5) years for compensated service rendered by the member in the Arkansas National Guard or in the armed forces reserve if the member:

(A) Makes an application to the Board of Trustees of the Arkansas Public Employees' Retirement System;

(B) Provides the board with satisfactory proof of that person's service in the Arkansas National Guard or in the armed forces reserve; and

(C)(i) For the years of service credit granted, pays to the system the employee and employer contributions based on the greater of:

(a) The annual salary received by the member for the member's first full year of credited service that precedes the fiscal year in which the service is purchased; or

(b) The average of the three (3) highest annual salaries earned at the time of purchase.

(ii) The member shall pay interest from the end of that year of credited service to the date of payment in full.

(2) Payment for service under this section shall be based on the contribution rates in effect at the time of the purchase.

(3) The payment shall be credited to the member's deposit account and is in addition to any regular member contributions.

(c) A member shall receive one (1) year of purchased service credit for every one (1) year of compensated service in the Arkansas National Guard or in the armed forces reserve.

(d) The service in the Arkansas National Guard or in the armed forces reserve shall not become credited service under this system until the member:

(1)(A) Pays for the purchased service in the Arkansas National Guard or in the armed forces reserve.

(B) Service may be purchased under this subdivision (d)(1) in one-month increments; and

(2) Has established five (5) or more years of actual service in the system.

(e) If a member ceases to be an active member before the service in the Arkansas National Guard or in the armed forces reserve has been established as system-credited service, the member payments contributed under this section are refundable, together with regular interest.

(f)(1) This section is supplemental to § 24-2-502, and nothing in this section shall diminish the right of any member of the system to obtain credited service in the system for active duty military service within the limits permitted by § 24-2-502.

(2) However, no member is entitled to receive more than five (5) years of credited service rendered by the member under this section.

(3) No member is eligible to purchase service credit in more than one (1) retirement system, whether federally or state-supported, for service time in the Arkansas National Guard or in the armed forces reserve.

(4) Service credit in the system for active duty military service under § 24-2-502 and for service in the Arkansas National Guard or in the armed forces reserve shall not be given for the same period of time.

(5) A member's service in the Arkansas National Guard or armed forces reserve shall not make the member eligible for any kind of benefit under any other state-supported retirement system except social security.

History. Acts 2005, No. 1027, § 1; 2007, No. 176, §§ 1, 2; 2009, No. 295, § 2; 2011, No. 38, § 1.

Amendments. The 2007 amendment, in (d), inserted present (d)(1) and redesignated the following subdivisions accordingly, deleted “or a portion of the service in one-year increments” following “reserve” in present (d)(2), and made related and stylistic changes; and in (f), substituted “three (3) years” for “one (1) year” in (f)(2), and rewrote (f)(5), which read: “The service is not credited as service under any other retirement system, including federal systems, except social security.”

The 2009 amendment substituted “five (5) years” for “one (1) year” in (b)(1); substituted “one (1) year” for “five (5) years” in (c); in (f), substituted “five (5)” for “three (3)” in (f)(2), substituted “retirement system, whether federally or state-supported” for “state-supported retirement system” in (f)(3), and substituted “state-supported retirement system” for “retirement system, including federal systems” in (f)(5); and made related changes.

The 2011 amendment inserted the (A) designation in (d)(1); in (d)(1)(A), substituted “purchased” for “year of” and deleted “at one (1) time in a single lump-sum payment”; and added (d)(1)(B).

24-2-504. Return to covered employment by military personnel.

(a) An active member of the state retirement system who is called to active military duty shall be afforded all employment protections as provided in the Uniformed Services Employment and Reemployment Rights Act, as in effect on January 1, 2009.

(b) Employer contributions shall be paid for the state retirement system member’s period of active military duty by the member’s last retirement system employer immediately before the member’s active duty in accordance with the Uniformed Services Employment and Reemployment Rights Act, as in effect on January 1, 2009.

(c) In order to receive retirement credit in the state retirement system for the time spent in active duty, a member covered by the contributory provisions of the member’s state retirement system who returns from active military duty to either the same or a different covered employer shall pay into the state retirement system the employee contributions that would have otherwise been paid into the state retirement system by the member as though the member had never left covered service.

History. Acts 2009, No. 295, § 3.

24-2-505. Compliance with the Heroes Earnings Assistance and Relief Tax Act of 2008.

(a)(1) In the case of a member who dies while performing qualified military service on or after January 1, 2011, and who otherwise would have been entitled to reemployment rights under the federal Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et seq., as in effect on January 1, 2011, the survivors of that member are entitled to any additional benefits that would have been provided under the public employee retirement plan had the member resumed employment with a covered employer on the day preceding his or her death and then terminated employment on the actual date of death.

(2) Subdivision (a)(1) of this section does not apply to benefit accruals relating to the period of qualified military service.

(3) The member's qualified military service shall be counted for purposes of determining whether the individual in issue was vested with the public employee retirement plan.

(b) In the case of a member who becomes disabled while performing qualified military service on or after January 1, 2011, and who otherwise would have been entitled to reemployment rights under the federal Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et seq., as in effect on January 1, 2011, that member is considered to have resumed employment with a covered employer on the day preceding the onset of his or her disability and then terminated employment on the actual date he or she became disabled.

(c) A member who dies or becomes disabled while performing qualified military service is deemed to have made employee contributions for the purpose of determining benefits other than benefit accruals that are contingent on those contributions for the period of qualified military service.

(d) This section applies to each public retirement system unless the system has a specific provision regarding the Heroes Earnings Assistance and Relief Tax Act of 2008, Pub. L. No. 110-245, already in its law.

History. Acts 2011, No. 38, § 5.

SUBCHAPTER 6 — STATE RETIREMENT SYSTEMS INVESTMENTS

SECTION.

- 24-2-601. Investment authority and limitations generally.
- 24-2-602. Investment authority and limitations — Permissible investments.
- 24-2-603. Investment authority and limitations — Default setoff.
- 24-2-604. Investment authority and limitations — Conflict of interest.
- 24-2-605. Investment authority and limitations — Fidelity bonds.
- 24-2-606. Investment authority and limitations — Custodianship of assets.
- 24-2-607. Investment authority and limitations — Trust account.
- 24-2-608. Investment authority and limitations — Arkansas-related investments.

SECTION.

- 24-2-609. Registration of securities in name of nominee — Powers and duties of nominee.
- 24-2-610. Prudent investor rule.
- 24-2-611. Standard of care — Portfolio strategy — Risk and return objectives.
- 24-2-612. Diversification.
- 24-2-613. Duties at inception of trusteeship.
- 24-2-614. Loyalty.
- 24-2-615. Impartiality.
- 24-2-616. Investment costs — Limitations on investment authority.
- 24-2-617. Reviewing compliance.
- 24-2-618. Delegation of investment and management functions.
- 24-2-619. Language invoking standard of subchapter.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to

avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-2-601. Investment authority and limitations generally.

(a) All investments of the retirement systems covered by this subchapter shall be in strict compliance with the provisions of this subchapter.

(b) The term "trust" as used in this subchapter refers to the following Arkansas retirement systems:

- (1) The State Police Retirement System;
 - (2) The Arkansas Public Employees' Retirement System;
 - (3) The Arkansas Teacher Retirement System;
 - (4) The Arkansas State Highway Employees' Retirement System;
- and
- (5) The Arkansas Judicial Retirement System.

(c) The term "trustees" as used in this subchapter refers to boards of trustees of the systems referenced in subsection (b) of this section.

History. Acts 2001, No. 151, § 8.

24-2-602. Investment authority and limitations — Permissible investments.

(a) The boards of trustees of the State Police Retirement System, the Arkansas Public Employees' Retirement System, the Arkansas Teacher Retirement System, the Arkansas State Highway Employees' Retirement System, and the Arkansas Judicial Retirement System shall have full power to invest and reinvest the moneys of the respective systems and to hold, purchase, sell, assign, transfer, or dispose of any of the investments so made as well as the proceeds of the investments and moneys.

(b) However, the investments and reinvestments shall only be made in accordance with the prudent investor rule set forth in §§ 24-2-610 — 24-2-619.

History. Acts 2001, No. 151, § 8.

24-2-603. Investment authority and limitations — Default setoff.

(a) In the event of default in payment of the principal or interest of any investment obligation held by any state retirement system where the issuer of the obligation receives moneys from the state, the default shall be certified by the board of the respective system to the Treasurer of State.

(b) The Treasurer of State shall withhold all moneys due the issuer from the state until the default, together with regular interest thereon, is satisfied.

History. Acts 2001, No. 151, § 8.

24-2-604. Investment authority and limitations — Conflict of interest.

Except as to the rights of a member, retirant, or beneficiary, no trustee and no officer or employee of the board of any state retirement system shall have any interest, directly or indirectly, in the gains or profits of any investment made by the respective board. Nor shall any retirement system trustee, officer, or employee, directly or indirectly for himself or herself or as an agent, in any manner use the assets of the systems except to make such current and necessary payments as are authorized by the respective boards, nor shall any of them become an endorser or surety or, in any manner, an obligor for moneys loaned by or borrowed from any of the respective systems.

History. Acts 2001, No. 151, § 8.

24-2-605. Investment authority and limitations — Fidelity bonds.

(a) The boards of trustees of the respective retirement systems shall provide for a blanket fidelity bond of one million dollars (\$1,000,000) covering the employees of the systems or such others as may be responsible for administering the funds.

(b) The boards may pay the premiums for the bond from funds of the systems.

History. Acts 2001, No. 151, § 8.

24-2-606. Investment authority and limitations — Custodianship of assets.

(a) The Treasurer of State shall be the legal custodian of the securities of the respective retirement systems. However, the systems may deposit with the Treasurer of State, in lieu of securities, safekeeping receipts or evidence of federal bookkeeping entries.

(b) The financial institution or depository issuing the safekeeping receipts, unless issued by an agency of the federal government, shall have on file with the Treasurer of State a letter of the issuer's bonding

or insurance company, stating the amount of insurance currently in force covering loss or theft of the securities.

(c) In addition, the boards of trustees of the respective retirement systems, if deemed necessary to facilitate particular investment transactions, the settlement of security transactions, redemption of particular securities, or collection of investment income, may select and designate such banks, trust companies, or central depositories as may be appropriate to act as legal custodian of their securities.

History. Acts 2001, No. 151, § 8.

24-2-607. Investment authority and limitations — Trust account.

(a) In addition to the various retirement systems funds established as trust funds in the State Treasury, a bank trust fund or funds may be established and maintained in such depository bank or banks as may be designated by the boards of trustees of the respective retirement systems.

(b) Each bank fund shall consist of and there may be deposited in the fund:

- (1) All employer contributions, including any interest;
- (2) All employee contributions, including any interest;
- (3) Interest, dividend, and other incomes realized from investments and reinvestments;
- (4) Interest earned upon any moneys in the fund; and
- (5) Such other proceeds as may be derived from the sale, exchange, redemption, transfer, or disposition of any securities or investments.

(c) The following disbursements may be made from the bank funds:

- (1) Payments for all securities and investments, the purchase of which is authorized by law, which may include principal, accrued interest, commission, taxes, and fees;
- (2) Payments for money manager and custodian bank fees;
- (3) The deposit to the appropriate State Treasury fund for the payment of annuities and refunds as authorized by law that are paid on vouchers issued by the respective retirement systems and on warrants issued thereon by the Auditor of State;
- (4) The payment of annuities and refunds as authorized by law that are paid on cash fund vouchers issued by the respective retirement systems and on checks or wire transfers issued from bank funds; and
- (5) The deposit to the appropriate State Treasury fund for the payments of salaries, maintenance, and operating expenses of the retirement systems supported from investment earnings.

History. Acts 2001, No. 151, § 8.

24-2-608. Investment authority and limitations — Arkansas-related investments.

(a) In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing funds held by each of the trusts, fiduciaries administering the systems shall manage the funds so as to favorably impact the economic condition of and maximize capital investment in the State of Arkansas when appropriate investment alternatives are available.

(b) It is the intention of the General Assembly that, as assets become available for investment, the systems shall seek to invest not less than five percent (5%) nor more than ten percent (10%) of their portfolios in Arkansas-related investments.

(c) In calculating the percentage of Arkansas-related investments, the systems shall not include Federal National Mortgage Association investments nor Government National Mortgage Association investments.

(d) Nothing in this section shall in any way limit or impair the responsibility of a fiduciary to invest in accordance with the prudent investor rule set forth in §§ 24-2-610 — 24-2-619.

History. Acts 2001, No. 151, § 8.

24-2-609. Registration of securities in name of nominee — Powers and duties of nominee.

(a) The boards of trustees of the various state retirement systems are authorized to register stocks, bonds, notes, and other securities held by and for the systems in the name of a designated nominee.

(b) Such action as is necessary to establish a nominee and a nominee agreement may be taken.

(c) The nominee agreement shall specify that the nominee shall not have or claim any beneficial interest whatsoever in any stocks, bonds, notes, and other securities held in the name of the nominee. That is, all beneficial interest in the stocks, bonds, notes, and other securities and in the interest, dividends, and capital gains derived therefrom shall be vested in the respective state retirement systems.

(d) The nominee shall have no power to undertake any obligation on behalf of the nominee, except upon the direction of the particular state retirement system.

(e) The nominee may endorse securities and take other necessary actions in the purchase, registration, and sale of stocks, bonds, notes, and other securities, subject always to the provisions of this section.

History. Acts 2001, No. 151, § 8.

24-2-610. Prudent investor rule.

(a) Except as otherwise provided in subsection (b) of this section, trustees who invest and manage trust assets owe a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in §§ 24-2-610 — 24-2-619.

(b)(1) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust.

(2) Trustees are not liable to a beneficiary to the extent that the trustees acted in reasonable reliance on the provisions of the trust.

History. Acts 2001, No. 151, § 8.

24-2-611. Standard of care — Portfolio strategy — Risk and return objectives.

(a) Trustees shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustees shall exercise reasonable care, skill, and caution.

(b) The trustees' investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that trustees shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (5) The expected total return from income and the appreciation of capital;

- (6) Other resources of the beneficiaries;
- (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (8) An asset's special relationship or special value, if any, to the purposes of the trust or to one (1) or more of the beneficiaries.

(d) Trustees shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) Trustees may invest in any kind of property or type of investment consistent with the standards of this subchapter.

(f) Trustees who have special skills or expertise, or who are named trustees in reliance upon the trustees' representation that the trustees

have special skills or expertise, have a duty to use their special skills or expertise.

History. Acts 2001, No. 151, § 8.

24-2-612. Diversification.

Trustees shall diversify the investments of the trust unless the trustees reasonably determine that, because of special circumstances, the purposes of the trust are better served without diversifying.

History. Acts 2001, No. 151, § 8.

24-2-613. Duties at inception of trusteeship.

(a) Within a reasonable time after accepting a trusteeship or receiving trust assets, trustees shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust and with the requirements of this subchapter.

(b)(1) Trustees shall develop an investment policy. This policy shall be a written statement of goals for the fund and rules to be followed to achieve those goals.

(2) Trustees shall measure performance of the fund and shall measure each manager's performance against benchmarks jointly agreed upon by the trustees and managers.

History. Acts 2001, No. 151, § 8.

24-2-614. Loyalty.

Trustees shall invest and manage the trust assets solely in the interest of the members and benefit recipients of the trust.

History. Acts 2001, No. 151, § 8.

24-2-615. Impartiality.

If a trust has two (2) or more beneficiaries, the trustees shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

History. Acts 2001, No. 151, § 8.

24-2-616. Investment costs — Limitations on investment authority.

(a) In investing and managing trust assets, trustees may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

(b) Trustees may delegate investment functions to an agent that a prudent trustee of comparable skills could properly delegate as provided in § 24-2-618.

History. Acts 2001, No. 151, § 8.

24-2-617. Reviewing compliance.

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of the trustees' decisions or actions and is not determined by hindsight.

History. Acts 2001, No. 151, § 8.

Publisher's Notes. The prudent investor rule, referred to in this section, is codified as §§ 24-2-610 through 24-2-619.

24-2-618. Delegation of investment and management functions.

(a) Trustees may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustees shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) Reviewing periodically the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) Trustees who complied with the requirements of subsection (a) of this section are not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of a trust function from the trustees of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

(e) Single agent or exclusive agency delegations by the trustees shall be discouraged. Trustees shall delegate investment and management functions to a single agent or an exclusive agency arrangement only after the trustee has determined that the exclusive agency arrangement is in the best interest of the trust, has exercised extraordinary care and caution in selecting the exclusive agent, and has arranged to periodically review in detail the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.

(f)(1) Notwithstanding the Arkansas Procurement Law, § 19-11-201 et seq., the boards of trustees of the respective state retirement systems shall promptly implement their investment directives consistent with the duty of care required of a fiduciary under the prudent investor rules in this chapter.

(2) If in the capacity as fiduciary, the trustees deem it appropriate to immediately retain an investment manager or to alter the terms of an existing agreement with an investment manager, the trustees shall:

(A) Pass a resolution stating the reason for the immediate retention of the investment manager;

(B) State the anticipated date of implementation; and

(C) Provide the Office of State Procurement and the staff of the Legislative Review Committee the information contained in subdivisions (f)(2)(A) and (B) of this section within five (5) business days.

(3) As required by the Legislative Review Committee, a member of the board of trustees or the director of the respective retirement system fund shall appear before the next occurring meeting of that body to explain the details of the professional services contracts in question.

History. Acts 2001, No. 151, § 8; 2009, No. 79, § 1. **Amendments.** The 2009 amendment added (f).

24-2-619. Language invoking standard of subchapter.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this subchapter:

(1) “Investments permissible by law for investment of trust funds”;

(2) “Legal investments”;

(3) “Authorized investments”;

(4) “Using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital”;

(5) “Prudent man rule”;

(6) “Prudent trustee rule”;

(7) “Prudent person rule”; and

(8) “Prudent investor rule”.

History. Acts 2001, No. 151, § 8.

SUBCHAPTER 7 — ARKANSAS PUBLIC EMPLOYEE RETIREMENT PLANS

SECTION.

24-2-701. Financial objectives and actuarial valuation.

24-2-702. Reports.

SECTION.

24-2-703. Tax exemptions.

24-2-704. Retirement in the event of government reorganization.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: “It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes

technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become ef-

fective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 340, § 2: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that economic conditions have caused the Arkansas Teacher Retirement System to suffer losses in the value of its financial assets; that the loss of asset value has created an unfunded actuarial accrued liability exceeding the standard thirty (30) year amortization period set by Arkansas law; that increasing the employer contribution rate will add to the asset values for the system and eventually return the system to financial balance; and that this act is immediately necessary because increases in the employer contribution rates can best be implemented over the summer between school years. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2005, No. 1968, § 3: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain changes are necessary to allow the Arkan-

sas Teacher Retirement System to set employer contribution rates; that the members of the system will benefit from these changes; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform measures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-2-701. Financial objectives and actuarial valuation.

(a) The general financial objective of each Arkansas public employee retirement plan shall be to establish and receive contributions that, expressed as percentages of active member payroll, will remain approximately level from generation to generation of state citizens. More specifically, contributions received each year shall be sufficient both:

(1) To fully cover the costs of benefit commitments being made to members for their service being rendered in that year; and

(2)(A) To make a level payment that if paid annually over a reasonable period of future years will fully cover the unfunded costs of benefit commitments for service previously rendered.

(B) Alternatively, if the costs of benefit commitments for service previously rendered are overfunded, the plan may deduct a level payment that if deducted annually over a reasonable period of future years will fully liquidate the overfunded portion of such costs.

(b) Each state public employee retirement plan shall cause an actuarial valuation of the plan or fund to be made at least biennially, and preferably annually, to determine how well the plan is meeting the objectives set forth in subsection (a) of this section.

(c) The employer contribution rates to the retirement systems shall be as follows:

(1)(A) For the Arkansas Teacher Retirement System, for the fiscal years ending June 30, 2008, and June 30, 2009, the Board of Trustees of the Arkansas Teacher Retirement System shall establish employer contribution rates prospectively each year.

(B) The employer contribution rates shall be based on the actuary's determination of the rate required to fund the plan in accordance with the objectives set forth in subsection (a) of this section.

(C) The employer contribution rates shall be the rates determined by the Board of Trustees of the Arkansas Teacher Retirement System based on the annual actuarial valuation.

(D) For the fiscal years ending June 30, 2008, and June 20, 2009, the employer contribution rate shall not exceed fourteen percent (14%).

(2) For the State Police Retirement System, twenty-two percent (22%); and

(3)(A) For the Arkansas Public Employees' Retirement System, the Board of Trustees of the Arkansas Public Employees' Retirement System shall establish employer contribution rates prospectively each year, and the rates shall be based on the actuary's determination of the rate required to fund the plan in accordance with the objectives set forth in subsection (a) of this section.

(B) The employer contribution rates shall be the rates determined by the annual actuarial valuation.

(d) Subsection (c) of this section shall not be construed as affecting in any way the existing methods of determining the years of credited service for computing benefits or determining retirement eligibility.

History. Acts 2001, No. 151, § 8; 2003, No. 340, § 1; 2005, No. 1968, § 1; 2006 (1st Ex. Sess.), No. 19, § 8; 2007, No. 403, § 1.

A.C.R.C. Notes. House Concurrent Resolution, No. 1003, Acts 2006 (1st Ex. Sess.), provided: "WHEREAS, call item 13 allows for the consideration of bills concerning the Arkansas Teacher Retirement System employer contribution rate at the

First Extraordinary Session of the 85th General Assembly; and WHEREAS, Arkansas Code § 10-2-115 and Rule 16(d) of the Joint Rules of the House of Representatives and the Senate provides that a bill affecting any publicly supported retirement system or systems shall not be introduced or considered at any special session of the General Assembly unless the introduction and consideration of the bill

is first approved by a three-fourths ($\frac{3}{4}$) vote of the full membership of each house of the General Assembly, NOW THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, THE SENATE CONCURRING THEREIN:

"That the House of Representatives and the Senate hereby authorize the introduction and consideration of bills providing that for the fiscal years ending June 30,

2006, and June 30, 2007, the Arkansas Teacher Retirement System employer contribution rate shall not exceed fourteen percent (14%)."

The date "June 20, 2009" in subdivision (c)(1)(D) of this section does not appear to be correct. The date should probably be "June 30, 2009".

Amendments. The 2007 amendment substituted "2008" for "2006" and substituted "2009" for "2007" in (c)(1)(A) and (c)(1)(D).

24-2-702. Reports.

(a) Each Arkansas public employees' retirement system shall have an annual financial audit performed by the Division of Legislative Audit and prepared in accordance with the financial accounting and reporting standards set forth for public pension plans by the Governmental Accounting Standards Board.

(b)(1) In addition, if approved by the board of trustees of an Arkansas public employees' retirement system, a system may also select another independent auditor to perform a separate financial audit of the respective system.

(2) Prior to entering the contract for the additional audit, the public employees' retirement system shall provide the Legislative Joint Auditing Committee the reasons, in writing, for the need of the additional financial audit.

(3) All contracts for audits shall be in compliance with the state's fiscal laws and regulations.

(4) A copy of each audit report prepared by another independent auditor shall be provided to the Legislative Joint Auditing Committee, the Legislative Council, and the Governor.

History. Acts 2001, No. 151, § 8.

24-2-703. Tax exemptions.

(a) The assets of the Arkansas Public Employees' Retirement System, the State Police Retirement System, the Arkansas Judicial Retirement System, the Arkansas State Highway Employees' Retirement System, and the Arkansas Teacher Retirement System are exempt from taxes by the state or any political subdivision or agency thereof.

(b)(1) It is the purpose of this section to provide equitable tax treatment to persons receiving benefits from alternate publicly supported retirement or annuity plans of the state's colleges and universities and the Department of Higher Education.

(2) It is not the intent of this section to reduce the income tax exemption provided by law to any person in regard to retirement or survivor benefits.

History. Acts 2001, No. 151, § 8.

24-2-704. Retirement in the event of government reorganization.

(a) In the event of any structural reorganization of state government operations, all current employees, appointees, trustees, and commissioners of any affected agency, board, or commission shall remain associated with the state-supported retirement system that existed for them as of the date immediately prior to the reorganization.

(b)(1) Member employers and employees of any state-supported retirement system shall remain covered by their respective systems.

(2) The transition of any state agency or other political subdivision of the state from one state-supported retirement system to another shall be accomplished through enabling legislation in the Eighty-fifth General Assembly.

(3) In the event of a retirement coverage transition, there shall be no transfer of service from one retirement system to another. Instead, the provisions of §§ 24-2-402 — 24-2-405, 24-2-407, and 24-2-408 shall be in full force and effect.

History. Acts 2003, No. 751, § 1.

CHAPTER 3

UNIFORM BENEFITS — FINANCING, ACCOUNTING, AND REPORTING STANDARDS. [REPEALED.]

SECTION.

24-3-101 — 24-3-426. [Repealed.]

Effective Dates. Acts 2001, No. 67, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees Retirement System this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2001."

Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code

Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-3-101 — 24-3-426. [Repealed.]

Publisher's Notes. This chapter was repealed by Acts 2001, No. 151, § 9. The chapter was derived from the following sources:

24-3-101. Acts 1977, No. 793, § 1; A.S.A. 1947, § 12-3301.

24-3-102. Acts 1977, No. 793, § 2; 1979, No. 650, §§ 1-3; 1983, No. 625, § 1; 1985, No. 271, § 2; 1985, No. 750, § 1; 1985, No. 910, § 2; A.S.A. 1947, § 12-3302; Acts 1987, No. 493, § 2; 1989, No. 966, § 1; 1991, No. 208, §§ 1-3; 1991, No. 672, § 1; 1991, No. 845, § 2; 1991, No. 970, § 1; 1993, No. 403, § 16; 1993, No. 975, § 1; 1993, No. 1097, § 1; 1997, No. 299, § 26(a); 1997, No. 485, § 3; 1997, No. 1137, § 1; 1999, No. 104, § 1.

24-3-103. Acts 1977, No. 793, § 6; 1981, No. 286, § 6; 1985, No. 994, § 1; A.S.A. 1947, § 12-3306; Acts 1987, No. 732, §§ 1, 2; 1989, No. 718, § 1; 1991, No. 431, § 1; 1997, No. 299, § 1; 2001, No. 67, § 1.

24-3-104. Acts 1977, No. 793, § 8; 1981, No. 286, § 7; 1985, No. 412, § 5; A.S.A. 1947, § 12-3308; Acts 1987, No. 9, § 2; 1994 (2nd Ex. Sess.), No. 52, § 1; 1997, No. 299, § 2.

24-3-105. Acts 1977, No. 793, § 9; 1979, No. 892, § 1; 1981, No. 468, §§ 1, 2; 1983, No. 618, § 1; 1985, No. 486, § 3; A.S.A. 1947, §§ 12-3309, 12-3310.

24-3-106. Acts 1983, No. 625, § 2; A.S.A. 1947, § 12-3311; Acts 1989, No. 669, § 1; 1997, No. 485, § 4; 1999, No. 325, § 10.

24-3-201. Acts 1977, No. 793, § 5; 1979, No. 650, § 8; 1985, No. 938, §§ 9, 13; 1985, No. 994, § 2; A.S.A. 1947, § 12-3305; Acts 1987, No. 951, § 1; 1991, No. 208, § 4; 1991, No. 224, § 1; 1993, No. 432, § 1; 1993, No. 975, § 2; 1995, No. 628, § 1; 1995, No. 962, § 2; 1995, No. 1356, § 1; 1997, No. 299, § 3; 1997, No. 318, § 2; 1997, No. 1053, § 22; 1999, No. 496, § 1.

24-3-202. Acts 1977, No. 793, § 5; 1979, No. 650, § 14; 1981, No. 894, § 6; A.S.A. 1947, § 12-3305.

24-3-203. Acts 1977, No. 793, § 5; 1979, No. 650, § 13; A.S.A. 1947, § 12-3305; Acts 1991, No. 661, § 1; 1993, No. 1200, § 1; 1997, No. 266, § 1.

24-3-204. Acts 1977, No. 793, § 5; A.S.A. 1947, § 12-3305.

24-3-205. Acts 1977, No. 793, § 5; A.S.A. 1947, § 12-3305; Acts 1987, No.

477, § 2; 1991, No. 432, § 1; 1997, No. 299, § 4; 1999, No. 39, § 1.

24-3-206. Acts 1977, No. 793, § 5; 1979, No. 650, § 10; 1985, No. 938, § 10; A.S.A. 1947, § 12-3305; Acts 1987, No. 357, § 1; 1987, No. 737, § 2; 1993, No. 432, § 2; 1995, No. 1356, § 2; 1997, No. 299, § 5; 1997, No. 485, § 6; 1997, No. 1053, § 23.

24-3-207. Acts 1977, No. 793, § 5; 1979, No. 650, § 9; A.S.A. 1947, § 12-3305; Acts 1995, No. 1356, § 3; 1997, No. 1053, § 24.

24-3-208. Acts 1977, No. 793, § 5; 1981, No. 894, § 5; A.S.A. 1947, § 12-3305; Acts 1995, No. 1356, § 4; 1997, No. 1053, § 25; 1999, No. 325, § 3; 1999, No. 868, § 2.

24-3-209. Acts 1977, No. 793, § 5; 1979, No. 650, § 11; 1981, No. 894, § 3; 1983, No. 637, § 2; 1983, No. 677, § 2; 1985, No. 938, § 12; A.S.A. 1947, § 12-3305; Acts 1991, No. 208, § 5; 1991, No. 463, § 1; 1991, No. 845, § 3; 1993, No. 432, §§ 3, 4; 1997, No. 299, § 6; 1999, No. 325, § 4; 1999, No. 1450, § 1.

24-3-210. Acts 1977, No. 793, § 5; A.S.A. 1947, § 12-3305.

24-3-212. Acts 1977, No. 793, § 5; A.S.A. 1947, § 12-3305.

24-3-213. Acts 1977, No. 793, § 5; A.S.A. 1947, § 12-3305.

24-3-214. Acts 1977, No. 793, § 3; 1979, No. 650, § 4; 1980 (1st Ex. Sess.), No. 58, § 1; 1981, No. 482, § 1; 1981, No. 894, § 1; 1983, No. 677, § 4; 1985, No. 938, § 1; A.S.A. 1947, § 12-3303; Acts 1993, No. 432, § 5; 1993, No. 1091, § 1.

24-3-215. Acts 1985, No. 310, § 1; A.S.A. 1947, § 12-3303.1; Acts 1995, No. 666, § 1.

24-3-216. Acts 1987, No. 187, §§ 3, 4, 8, 9; 1987 (1st Ex. Sess.), No. 17, § 1.

24-3-217. Acts 1987, No. 717, §§ 2-4; 1987 (1st Ex. Sess.), No. 17, § 2; 1991, No. 1141, § 1.

24-3-218. Acts 1995, No. 738, § 2.

24-3-301. Acts 1977, No. 793, § 4; 1981, No. 894, § 2; 1983, No. 677, § 1; A.S.A. 1947, § 12-3304; Acts 1991, No. 208, § 6; 1991, No. 845, § 1; 1995, No. 1356, § 5; 1997, No. 485, § 7; 1999, No. 1587, § 1.

24-3-302. Acts 1977, No. 793, § 4; 1979, No. 650, §§ 5, 6; A.S.A. 1947, § 12-3304; Acts 1989, No. 160, § 1.

24-3-303. Acts 1977, No. 793, § 4; 1979, No. 650, § 7; 1981, No. 482, § 2; 1983, No. 679, § 3; A.S.A. 1947, § 12-3304; Acts

1995, No. 949, § 3; 1997, No. 857, § 3; 1999, No. 325, § 5; 1999, No. 537, § 3.

24-3-304. Acts 1999, No. 868, § 1.

24-3-401. Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307; Acts 1997, No. 1194, § 1.

24-3-402. Acts 1977, No. 793, § 7; 1981, No. 495, §§ 1, 2; 1983, No. 434, § 1; 1983, No. 678, § 1; 1985, No. 412, § 1; A.S.A. 1947, § 12-3307; Acts 1997, No. 1194, § 2.

24-3-404. Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307.

24-3-405. Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307.

24-3-406. Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307.

24-3-408. Acts 1977, No. 793, § 7; 1981, No. 495, § 4; 1985, No. 412, § 2; A.S.A. 1947, § 12-3307.

24-3-409. Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307; Acts 1989, No. 153, § 1; 1991, No. 222, § 1.

24-3-414. Acts 1977, No. 793, § 7; 1985, No. 412, § 4; A.S.A. 1947, § 12-3307; Acts 1997, No. 1194, § 3.

24-3-415. Acts 1979, No. 522, § 2; A.S.A. 1947, § 12-3307.1.

24-3-417. Acts 1997, No. 1194, § 4.

24-3-418. Acts 1997, No. 1194, § 4.

24-3-419. Acts 1997, No. 1194, § 4.

24-3-420. Acts 1997, No. 1194, § 4.

24-3-421. Acts 1997, No. 1194, § 4.

24-3-422. Acts 1997, No. 1194, § 4.

24-3-423. Acts 1997, No. 1194, § 4; 1999, No. 555, § 11.

24-3-424. Acts 1997, No. 1194, § 4.

24-3-425. Acts 1997, No. 1194, § 4.

24-3-426. Acts 1997, No. 1194, § 4.

Section 24-3-103 was amended by Acts 2001, No. 67, and repealed by Acts 2001, No. 151. The repeal by Acts 2001, No. 151, was deemed to supersede the amendment by Acts 2001, No. 67.

As amended by Acts 2001, No. 67, § 24-3-103 was amended to read as follows:

“(a) The general financial objective of each Arkansas public employee retirement plan shall be to establish and receive contributions which, expressed as percentages of active member payroll, will remain approximately level from generation to generation of Arkansas citizens. More specifically, contributions received each year shall be sufficient both:

“(1) To fully cover the costs of benefit commitments being made to members for their service being rendered in that year; and

“(2) To make a level payment which, if paid annually over a reasonable period of future years, will fully cover the unfunded costs of benefit commitments for service previously rendered. Alternatively, if the costs of benefit commitments for service previously rendered are overfunded, the plan may deduct a level payment which, if deducted annually over a reasonable period of future years, will fully liquidate the overfunded portion of the costs.

“(b) Each Arkansas public employee retirement plan shall cause an actuarial valuation of the plan or fund to be made at least biennially, and preferably annually, to determine how well the plan is meeting the objectives set forth in subsection (a) of this section.

“(c) The employer contribution rates to the named plans shall be as follows:

“(1) For the Arkansas Teacher Retirement System, twelve percent (12%);

“(2) For the Arkansas State Police Retirement System, twenty-two percent (22%); and

“(3) The Board of Trustees of the Arkansas Public Employees’ Retirement System shall establish employer rates prospectively each year, and the rates shall be based on the actuary’s determination of the rate required to fund the plan in accordance with the objectives set forth in subsection (a) of this section. The contribution rates shall be the rates determined by the annual actuarial valuation.

“(d) Subsection (c) of this section shall not be construed as affecting in any way the existing methods of determining the years of credited service for computing benefits or determining retirement eligibility.”

Section 24-3-107, concerning benefits for State Capitol Police, was repealed by Acts 1999, No. 325, § 11. The section was derived from Acts 1993, No. 1097, §§ 2,3; 1997, No. 485, § 5.

Section 24-3-211, concerning limitations on benefits to employed retirant, was repealed by Acts 1987, No. 525, § 1. The section was derived from Acts 1977, No. 793, § 5; 1979, No. 650, § 12; 1981, No. 894, § 4; A.S.A. 1947, § 12-3305.

Section 24-3-403, concerning investment authority and limitations and required recommendation, was repealed by Acts 1997, No. 1194, § 7. The section was derived from Acts 1977, No. 793, § 7;

A.S.A. 1947, § 12-3307; Acts 1989, No. 302, § 1.

Section 24-3-407, concerning investment authority and limitations and competitive awards, was repealed by Acts 1997, No. 1194, § 7. The section was derived from Acts 1977, No. 793, § 7; 1981, No. 495, § 3; A.S.A. 1947, § 12-3307; Acts 1989, No. 302, § 2.

Sections 24-3-410 — 24-3-413, concerning investment authority and limitations and investment counsel; prudent investor rule; loan of securities and covered call options, were repealed by Acts 1997, No. 1194, § 7. The sections were derived from the following sources:

24-3-410. Acts 1977, No. 793, § 7; 1985, No. 1009, § 1; A.S.A. 1947, § 12-3307; Acts 1989, No. 302, § 3; 1993, No. 403, § 17.

24-3-411. Acts 1977, No. 793, § 7; 1985, No. 412, § 3; A.S.A. 1947, § 12-3307.

24-3-412. Acts 1977, No. 793, § 7; 1981, No. 495, § 5; A.S.A. 1947, § 12-3307; Acts 1989, No. 652, § 10.

24-3-413. Acts 1977, No. 793, § 7; 1981, No. 495, § 6; 1983, No. 434, § 2; A.S.A. 1947, § 12-3307.

Section 24-3-416, concerning divestment of investments in South Africa, was repealed by Acts 1994 (2nd Ex. Sess.), No. 52, § 1. The section was derived from Acts 1977, No. 793, § 7; 1987, No. 9, § 1.

For present law, see §§ 24-2-601 et seq. and 24-2-701 et seq.

This Publisher's Note is being set out to correct the omission of the histories of §§ 24-3-107, 24-3-211, 24-3-403, 24-3-407, 24-3-410 — 24-3-413, and 24-3-416.

CHAPTER 4

ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. FUNDS AND MANAGEMENT OF ASSETS.
3. MEMBERSHIP.
4. EMPLOYER AND EMPLOYEE CONTRIBUTIONS.
5. CREDITED SERVICE AND ELIGIBILITY FOR BENEFITS.
6. BENEFITS.
7. PROVISIONS APPLICABLE TO PARTICULAR EMPLOYEES.
8. DEFERRED RETIREMENT OPTION PLAN.
9. ARKANSAS RETIREMENT PLAN.
10. RETIREMENT BENEFITS.
11. CONTRIBUTIONS OF MEMBERS TO THEIR DEPOSIT ACCOUNTS.

A.C.R.C. Notes. References to "this chapter" in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-

733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 — 24-4-747 may not apply to §§ 24-4-108, 24-4-109, 24-4-743 — 24-4-752, 24-4-212, 24-4-801 — 24-4-806, 24-4-901, 24-4-1001 — 24-4-1004, and 24-4-1101 — 24-4-1109 which were enacted subsequently.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 24-4-101. Definitions.
 24-4-102. Penalty.
 24-4-106. Limitations.
 24-4-108. Implementation of a contributory component.

SECTION.

- 24-4-109. Compliance with federal regulation.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1299, § 2: Apr. 5, 2001. Emergency clause provided: "It is found and determined by the General Assembly that there is uncertainty caused by the provision in Arkansas Code 24-4-106 which provides for the elimination of retirement plans by attrition, by issues related to the integration of state and federal retirement laws, and by litigation to interpret the existing law; and that this act is immediately necessary to eliminate uncertainty and to protect the retirement systems, covered employers, and affected employees. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2084, § 5: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and

benefit recipients of the Arkansas Public Employees' Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 799, § 4: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the consideration of retirement benefits in the Arkansas Public Employees' Retirement System and that the ideal and most efficient time to make revisions to the consideration of retirement benefits is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 616, § 3: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly that the provisions of this act change the calculation of compensation for retirement purposes and should become effective on July 1, 2009, for consistent application and to avoid confusion; and that unless this emergency clause is adopted, this act will not go into effect until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 2009."

Acts 2011, No. 20, § 5: Feb. 9, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Public Employees' Retirement System currently requires that retirement contributions be based on a member's base salary plus any multipliers; that retirement contributions and benefits should be determined based on a member's base salary and not any multipliers or special salary allowances; and that this act is immediately necessary to clarify the meaning of the term 'compensation' for purposes of the Arkansas Public Employees' Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of

the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 38, § 11: Feb. 16, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the public retirement systems provide economic security for eligible citizens of Arkansas;

that the statutes need amending to update and clarify existing law; and that these changes need to be made immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

24-4-101. Definitions.

As used in this act:

(1) “Accumulated contributions” means the sum of all amounts deducted from the compensations of a member and credited to his or her individual account in the member’s deposit account, together with regular interest as may have been credited thereon;

(2) “Actual service” means service credited at the rate of one (1) month for each month of service;

(3) “Actuarial equivalent” means a benefit of equal reserve value when “reserve” means the present value of all payments to be made on account of any benefit based upon such reasonable rates of interest and tables of experience as a plan shall adopt from time to time;

(4) “Actuary” means a qualified actuary with experience in retirement plan financing. Membership in the American Academy of Actuaries shall be sufficient for a person to be deemed a qualified actuary;

(5) “Age” means age on last birthday;

(6)(A) “Annuity” means a monthly amount payable from funds of the Arkansas Public Employees’ Retirement System throughout the life of a person.

(B) All annuities shall be paid in equal monthly installments;

(7) “Annuity reserve” means the present value of an annuity computed upon the basis of mortality and other such tables of experience and regular interest, as the Board of Trustees of the Arkansas Public Employees’ Retirement System shall adopt;

(8) “Beneficiary” means any person except a retirant who is receiving or is designated by a member to receive a plan benefit;

(9) “Benefit program” means a schedule of benefits or benefit formulas from which the amounts of benefits can be determined;

(10) “Board” means the Board of Trustees of the Arkansas Public Employees’ Retirement System, as created in this act;

(11)(A) “Compensation” means the recurring remuneration paid a member by public employers for personal services rendered by a

member in a position covered by an employer participating in the Arkansas Public Employees' Retirement System.

(B) The following are recurring remuneration for personal services for the purposes of determining retirement benefits:

(i) Career service recognition payments paid to a member under § 21-5-106;

(ii) Payments made to a member under § 21-5-1101, including without limitation a lump-sum payment;

(iii)(a) Except as provided in subdivision (11)(B)(iii)(b) of this section, payments made to a member under § 14-14-1206(a), including without limitation a bonus or lump-sum payment.

(b) The maximum amount of the bonus or lump-sum payment that will be considered to be compensation during the last year of a member's employment is the lesser of five percent (5%) of the current year's salary or the amount of the bonus or lump-sum payment that was received by the member during the previous year of employment;

(iv)(a) Except as provided in subdivision (11)(B)(iv)(b) of this section, a bonus or lump-sum payment made to a municipal employee as provided in the municipality's annual budget under § 14-42-308.

(b) The maximum amount of the bonus or lump-sum payment that will be considered to be compensation during the member's last year of employment is the lesser of five percent (5%) of the current year's salary or the amount of the bonus or lump-sum payment that was received by the member during the previous year of employment; and

(v) Lump-sum payments made to a member under §§ 21-5-211 and 21-5-219.

(C) If a member's compensation includes either lodging or meals, or both, exclusive of travel expense, the cash value of the lodging and meals shall be fixed by the board, not to exceed the amount the employee is required to report for federal income tax purposes.

(D) Except as provided in subdivision (11)(C) of this section, "compensation" includes only the base salary of the member and does not include a multiplier or other special salary allowance used to increase a person's salary as authorized by the General Assembly;

(12) "Contributory member" means:

(A) A person who was a member of the Arkansas Public Employees' Retirement System prior to January 1, 1978, and who continues to contribute six percent (6%) of his or her compensation to the system. However, the rate will be five percent (5%) on and after July 1, 2005; or

(B) A member first hired on or after July 1, 2005, or a noncontributory member who elects to become a contributory member under § 24-4-1101 et seq.;

(13) "County" means any county in the state and includes all agencies, offices, departments, boards, commissions, and county-supported institutions that are duly constituted agencies of the county;

(14)(A) "County employees" means all employees whose compensations are payable, either directly or indirectly, by county participating

public employers and includes employees of the Association of Arkansas Counties.

(B) In any case of doubt as to who is a county employee within the meaning of this act, the board shall have the final power to decide the question;

(15)(A) "Credited service" means the sum of the prior service and current service to the extent credited a member by the board, in accordance with the provisions of § 24-4-521.

(B) Any member first hired on or after July 1, 2005, to a covered position whose service is credited at a rate other than that defined in § 24-4-101(2) shall accrue that credit on no more than ten (10) actual years of service;

(16)(A) "Current service" means service rendered to a public employer by a member from and after the date he or she became a member.

(B) In the case of a nonstate employee, service rendered by the employee to a public employer in the period from June 30, 1957, to the date his or her employer became a participating public employer, which period is called interim current service, shall be included as current service, but only if the employee satisfies the conditions set forth in Acts 1965, No. 153, § 10 [repealed];

(17)(A)(i)(a) "Employees" means all officers and employees of any office, agency, board, commission, including the Department of Higher Education, or department of a public employer whose compensations were or are payable from funds appropriated by the public employer and all otherwise eligible employees whose compensations were or are payable in whole or part from federal funds, as well as the official court reporters and stenographers of the circuit and chancery courts of the state and all of the prosecuting attorneys of the judicial districts of Arkansas.

(b) In addition, effective July 1, 1983, the term "employees" shall include those persons who are eligible for benefits from the Teachers Insurance and Annuity Association but who are otherwise eligible for participation in the Arkansas Public Employees' Retirement System due to employment with a public employer.

(ii) Any person who has previously been denied coverage under the Arkansas Public Employees' Retirement System because the person was or is paid from a grant instead of funds appropriated by the public employer shall from July 1, 1991, become a member of the system if in an otherwise eligible position due to being an employee of a public employer, and a member may at his or her option receive credit for service rendered before that date as an employee paid from a grant, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one

(1) year;

(d) The payment of funds shall be made in one (1) lump sum; and

(e) Any person who, prior to the effectiveness of this provision, has been removed from membership in the Arkansas Public Employees' Retirement System because of eligibility for membership in a local firemen's pension fund as a volunteer firefighter may restore the refunded service and establish subsequent service by paying or causing to be paid to the Arkansas Public Employees' Retirement System the refunded contributions and the legally required contributions for subsequent service.

(B) Excepting members of the General Assembly and those persons participating in a local firemen's pension fund because of their status as volunteer firefighters and those persons who have dual full-time employment in separate positions covered by the Arkansas Public Employees' Retirement System and the Arkansas Local Police and Fire Retirement System respectively, the term "employees" shall not include persons who are members of any other retirement system, excepting federal Social Security, which retirement system is supported by state funds or is authorized by the laws of the state. In addition, the term "employees" specifically shall not include the following:

(i) Persons in the employ of the Department of Arkansas State Police who are members of the State Police Retirement System;

(ii) Persons in the employ of the Department of Education or the Arkansas Teacher Retirement System, except as otherwise provided by law;

(iii) Persons in the employ of the University of Arkansas or any other state-supported institution of higher learning, except as otherwise provided by law;

(iv) Justices of the Supreme Court, judges of circuit courts, or judges of chancery courts;

(v) Persons in the employ of the General Assembly who are employed on a less than full-time regular annual salary basis, except that any person who has served or who shall serve during at least six (6) legislative sessions as Chief Clerk of the House of Representatives and who has served in the employ of the General Assembly during at least twelve (12) previous legislative sessions shall be eligible to

receive credited service in the Arkansas Public Employees' Retirement System for any period of employment with the General Assembly since July 1, 1957, but only if the employee is, or was, an active member of the system with at least ten (10) years of credited service and only if the employee pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member of the system during those periods of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during those periods of time, and regular interest on the employee and employer contributions computed from the date of service to the date the payment is received by the system;

(vi) Persons who are in the employ of the Arkansas State Highway and Transportation Department;

(vii) Persons employed with the intent of working less than ninety (90) calendar days;

(viii) Persons who are employed for a period of more than ninety (90) consecutive calendar days but who do not qualify as full-time employees shall be excluded from membership. A person shall be considered a full-time employee if that person works at least eighty (80) hours per month during a period of ninety (90) consecutive calendar days;

(ix)(a)(1) Persons whose rate of pay does not constitute employment that is substantially gainful shall be excluded from membership.

(2) A rate of pay less than the federal minimum wage for the year shall not be considered employment that is substantially gainful.

(b) A tipped food service employee of the Department of Parks and Tourism who is guaranteed the prevailing minimum wage by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq., as it existed on January 1, 2009, is in employment that is substantially gainful.

(c) The employee and employer contributions for a tipped food service employee of the Department of Parks and Tourism is computed based on the tipped food service employee's hourly rate of pay;

(x) Persons who are first employed or those who are reemployed as participants on or after July 1, 1979, under the Comprehensive Employment and Training Act. However, those persons participating in the program prior to July 1, 1979, shall continue to be members of the Arkansas Public Employees' Retirement System while employed by a participating public employer;

(xi) Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was eligible for membership in but did not participate in another retirement system that is supported by state funds or that is authorized by the laws of the state, shall become a member of the Arkansas Public Employees' Retirement System from the date of July 1, 1999, if in an otherwise eligible position due to employment with a participating employer.

Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was eligible for or receiving benefits from another retirement system supported by state funds or that is authorized by the laws of the state shall become a member of the Arkansas Public Employees' Retirement System from the date of July 1, 1999, if in an otherwise eligible position due to employment with a participating employer. That person may receive, at the employee's option, credit for service rendered to a participating public employer before that date, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(d) The payment of funds shall be made in one (1) lump sum;

(xii) The surviving spouse of any person deemed erroneously enrolled due to receipt of a benefit from another retirement system supported by state funds or that is authorized by the laws of the state but whose service had not been refunded at or before the date of death shall be eligible to receive a benefit under the provisions of § 24-4-608, provided that the person was an employee of the participating employer on the date of death. The monthly annuity shall be payable on the first day of the month following the month of application and shall be retroactive to the date the benefit would have been otherwise payable as provided for in § 24-4-608; and

(xiii) Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was employed in dual full-time positions covered by the Arkansas Public Employees' Retirement System and the Arkansas Local Police and Fire Retirement System, respectively, shall become a member of both systems from and after the date of July 1, 2001, if in otherwise eligible positions with participating employers. The person may receive at the employee's option credit for service rendered to a participating public employer before that date, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had the person been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had the person been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(d) The payment of funds shall be made in one (1) lump sum.

(C) In any case of doubt as to who is an employee within the meaning of this act, the board shall have the final power to decide the question;

(18)(A)(i) "Final average compensation" means the average of the highest annual compensations paid a member during any period of three (3) years of credited service with a public employer.

(ii) The three-year average shall be the greatest of the following:

(a) One-third ($\frac{1}{3}$) of the following: The total of the highest compensations paid during the two (2) completed fiscal years when added to the total third highest compensation paid during the completed fiscal year; or

(b) One-third ($\frac{1}{3}$) of the following: The total of the highest compensations paid during the two (2) completed fiscal years added to the total of the compensation paid for the months of credited service within the incomplete fiscal year in which the member retires, provided there are some, and the total third highest compensation paid during the completed fiscal year which has been multiplied by the number of months remaining in the fiscal year in which retirement occurs and divided by twelve (12).

(iii) Should the member have less than the minimum three (3) years of credited service, "average compensation" means the annual average compensations to the member during his or her total years of actual service.

(B) Any other provision to the contrary notwithstanding:

(i) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's rate of pay at the time of separation from covered employment;

(ii) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's highest rate of such pay; or

(iii) If a member served at any time in an office whose rate of pay is set by Arkansas Constitution, Amendment 70, § 1, and that member was a member of the General Assembly on December 31, 1978, then the member's "average compensation" shall not be less than the rate of pay currently set for the highest-legislative office the member held;

(19) "General Assembly" means the General Assembly of the state;

(20) "Intergovernmental Juvenile Detention Council" means the Intergovernmental Juvenile Detention Council of the Tenth Judicial District created by uncodified Act 899 of 1995, which has chosen by a majority vote of the council to participate in the Arkansas Public Employees' Retirement System;

(21) "Joint county and municipal sanitation authority" means any sanitation authority created under the Joint County and Municipal Solid Waste Disposal Act, § 14-233-101 et seq., which has chosen by a majority vote of its full-time employees to participate in the Arkansas Public Employees' Retirement System;

(22) "Local units of government" means those entities participating in the Arkansas Public Employees' Retirement System under the provisions of § 24-4-746;

(23) "Member" means any person who is included in the membership of the Arkansas Public Employees' Retirement System;

(24)(A) "Municipal employees" means all employees whose compensations are payable, either directly or indirectly, by participating municipal public employers and includes employees of the Arkansas Municipal League, employees of the water and sewer system of any city divided by a state line, and employees of the Arkansas Local Police and Fire Retirement System.

(B) "Municipal employees" shall not include members of a municipal firemen's or policemen's pension fund while the member is accruing credited service in that system, excepting those members of a municipal firemen's pension fund who are members solely because of their status as volunteer firefighters.

(C) In any case of doubt as to who is a municipal employee within the meaning of this act, the board shall have the final power to decide the question;

(25) "Municipality" means any incorporated city or town in the state and includes all agencies, offices, departments, and commissions of the city or town;

(26) "Noncontributory member" means a person who does not contribute a portion of his or her compensation to the Arkansas Public Employees' Retirement System;

(27) "Nonstate employees" means county employees, municipal employees, rural waterworks facilities board employees, regional airport authority employees, public facilities board employees, regional solid

waste management board employees, joint county and municipal sanitation authority employees, regional water distribution board employees, the employees of economic development districts recognized as planning and development districts under § 14-166-202, school employees, and the employees of the Intergovernmental Juvenile Detention Council;

(28) "Normal retirement age" means, for a member, the youngest of the following ages:

(A) Age sixty (60) and with twenty (20) or more years of actual service for a contributory member; or

(B) Age sixty-five (65) with five (5) or more years of actual service, except for a member of the General Assembly who must have ten (10) or more years of actual service if he or she only has service as a member of the General Assembly;

(C) If the provisions of § 24-4-521 are used to determine any portion of total credited service, then the age upon completion of thirty-five (35) years of credited service, but in no event to an age younger than fifty-five (55);

(D) For a noncontributory member with credited service for employment as a public safety employee or as a sheriff, age sixty-five (65) reduced by one (1) month for each two (2) months of such credited service, but in no event to an age younger than fifty-five (55), except in the case of a sheriff who has a minimum of ten (10) years of actual service as a sheriff or who has eight (8) years of actual service as a sheriff and a minimum of two (2) years of service in another state-supported retirement system, for whom the minimum retirement age shall be fifty-two (52);

(E) The age upon completion of twenty-eight (28) years of credited service, if the provisions of § 24-4-521 are not used to determine any portion of the credited service;

(F) For a member of the General Assembly with twelve (12) years of actual service, ten (10) of which must be as a member of the General Assembly, at age fifty-five (55). A member of the General Assembly who was either serving in the General Assembly on July 1, 1979, or held an elected office on July 1, 1979, shall be eligible to retire with seventeen and one-half (17½) years of actual service regardless of age;

(G) An elected state constitutional officer shall be eligible to retire with twenty-eight (28) years of credited service at age fifty-five (55); and

(H) Notwithstanding subdivision (28)(C) of this section, in the case of a deputy sheriff who has a minimum of twenty-five (25) years of actual service as a deputy sheriff, the minimum retirement age shall be fifty-two (52);

(29) "Participating public employer" means:

(A) Any county, municipality, rural waterworks facilities board, regional airport authority, public facilities board, regional solid waste management board, joint county and municipal sanitation authority,

suburban improvement district under § 14-92-502, or regional water distribution board in the state whose employees are included in the membership of the Arkansas Public Employees' Retirement System;

(B) The employees of the Intergovernmental Juvenile Detention Council of the Tenth Judicial District who are included in the membership of the Arkansas Public Employees' Retirement System; or

(C) A public rehabilitative services corporation or local unit of government as provided for in § 24-4-746;

(30)(A) "Prior service", in the case of a state or municipal employee, means personal service rendered by the employee to a public employer prior to July 1, 1957.

(B) The term "prior service", in the case of a county employee, means personal service rendered by the employee to a public employer prior to July 1, 1959;

(31) "Public employer" means the State of Arkansas or any participating public employer;

(32) "Public facilities board" means any public facilities board created under the Public Facilities Boards Act, § 14-137-101 et seq., which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

(33) "Public Rehabilitation Services Corporations" means those entities participating in the Arkansas Public Employees' Retirement System under the provisions of § 24-4-746;

(34)(A) "Public safety member" means a noncontributory member whose covered employment is for personal services as a police officer or firefighter and his or her employment commenced prior to July 1, 1997, except as provided for public safety members covered under § 24-4-1004.

(B)(i)(a) "Police officer" means any regular or permanent employee whose primary duty is law enforcement of a municipal police department, a county sheriff's office, or the Department of Arkansas State Police, including probationary police officers.

(b) "Police officer" includes wildlife officers of the Arkansas State Game and Fish Commission, drug enforcement officers of a judicial drug taskforce, civilian firefighters of the State Military Department covered under § 24-4-1004, and all officers and the Director of the State Capitol Police within the office of the Secretary of State.

(ii) An officer who, although assigned to administrative duties, is still subject to call for service at patrol duty or duty in the field or is subject to call for duties in emergency situations requiring the officer to be armed with a firearm shall be considered to have the primary duty of law enforcement for the purpose of this subdivision (34)(B).

(iii) The term "police officer" shall not include any civilian employee of a police department or any person temporarily employed as a police officer during an emergency.

(C)(i) "Firefighter" means any regular employee of a fire department whose primary duty is fire fighting, including probationary firefighters.

(ii) "Firefighter" shall not include any civilian employee of a fire department or any person temporarily employed as a firefighter during an emergency.

(D)(i) "Public safety member" shall not include a member whose employment as a police officer or firefighter commenced on or after July 1, 1997, except as provided for public safety members covered under § 24-4-1004.

(ii)(a) If a public safety member leaves his or her employment as a police officer or firefighter for employment as a police officer or firefighter in a position covered by the Arkansas Public Employees' Retirement System, Arkansas State Highway Employees' Retirement System, State Police Retirement System, or Arkansas Local Police and Fire Retirement System and returns to his or her previous employment as a police officer or firefighter, the public safety member shall resume receiving credited service at one and one-half (1½) times the regular rate for crediting service.

(b) A person eligible to resume receiving public safety credit prior to July 31, 2007, shall receive credited service for his or her return to employment as a police officer or firefighter at one and one-half (1½) times the regular rate for crediting service.

(E) A public safety member who receives or has received credited service at one and one-half (1½) times the regular rate for crediting service may change employers and continue to receive credited service at one and one-half (1½) times the regular rate for crediting service, provided:

(i) The person is employed as a public safety officer within six (6) months of termination from employment as a public safety member; and

(ii) The employer provides public safety officers credited service at one and one-half (1½) times the regular rate for crediting service;

(35) "Regional airport authority" means any regional airport authority created under the Regional Airport Act, § 14-362-101 et seq., which was formed after January 1, 1990, and which has chosen to participate in the Arkansas Public Employees' Retirement System;

(36) "Regional solid waste management board" means any regional solid waste management board defined under § 8-6-701 et seq. which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

(37) "Regional water distribution board" means any regional water distribution board created under The Regional Water Distribution District Act, § 14-116-101 et seq., which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

(38)(A) "Regular interest" means such rates of interest per annum, compounded annually, as the board shall prescribe from time to time.

(B) However, for circumstances entered into July 1, 1985, or later, when payments are payable to the Arkansas Public Employees' Retirement System by a member together with regular interest

thereon, the rate of interest shall be the same for all circumstances and shall be six percent (6%) per annum unless changed by the board;

(39) "Retirant" means a person receiving a plan annuity by reason of having been a member of the Arkansas Public Employees' Retirement System;

(40)(A) "Retirement" means a member's withdrawal from the service of a public employer, with an annuity payable from funds of the Arkansas Public Employees' Retirement System.

(B) Failure to meet termination requirements shall not operate to revoke a member's retirement election;

(41) "Rural waterworks facilities board" means a rural waterworks facilities board created under the Rural Waterworks Facilities Boards Act, § 14-238-101 et seq.;

(42) "Social security" means the federal social security old age, survivors', and disability insurance program;

(43) "State" means the State of Arkansas and includes all agencies, offices, departments, boards, commissions, and state-supported institutions that are duly constituted agencies of the state;

(44)(A) "State employees" means all otherwise eligible employees whose compensations were, or are, payable from funds appropriated by the state and includes all employees whose compensations were, or are, payable in whole or in part from federal funds.

(B) In any case of doubt as to who is a state employee within the meaning of this act, the board shall have the final power to decide the question; and

(45) "System" means the Arkansas Public Employees' Retirement System.

History. Acts 1957, No. 177, § 1; 1959, No. 42, § 1; 1961, No. 64, § 1; 1965, No. 47, § 1; 1967, No. 289, § 1; 1975, No. 907, § 7; 1975 (Extended Sess., 1976), No. 1159, §§ 1, 2; 1979, No. 715, § 8; 1981, No. 859, § 1; 1983, No. 42, §§ 1, 2; 1983, No. 575, § 1; 1985, No. 910, § 1; 1985, No. 938, § 7; A.S.A. 1947, § 12-2501; Acts 1987, No. 461, § 1; 1987, No. 493, § 1; reen. 1987, No. 988, §§ 1, 2; 1989, No. 160, § 3; 1991, No. 331, § 1; 1991, No. 757, § 2; 1993, No. 286, §§ 1-3; 1993, No. 432, §§ 6, 7; 1993, No. 975, § 3; 1995, No. 398, §§ 1-3; 1995, No. 846, § 1; 1995, No. 1292, §§ 1-3; 1997, No. 76, §§ 2-4; 1997, No. 299, § 7; 1997, No. 639, § 1; 1997, No. 1137, § 2; 1999, No. 325, § 6; 1999, No. 865, § 1; 2001, No. 151, § 10; 2001, No. 764, § 1; 2001, No. 1616, § 1; 2005, No. 2084, §§ 2, 3; 2007, No. 176, § 3; 2007, No. 295, § 1; 2007, No. 299, § 1; 2007, No. 799, § 3; 2007, No. 850, § 1; 2009, No. 616, § 2; 2009, No. 774, § 1; 2009, No. 1277, § 1; 2011, No. 20, § 3; 2011, No. 38,

§ 2; 2011, No. 140, § 1; 2011, No. 978, § 2.

Amendments. The 2007 amendment by No. 176 inserted "suburban improvement district under § 14-92-502" in (29)(A), and made a related change.

The 2007 amendment by No. 295 inserted "the employees of economic development districts recognized as planning and development districts under § 14-166-202" in (27), and made a related change.

The 2007 amendment by No. 299 inserted "suburban improvement district under § 14-92-502" in (29)(A), and made a related change.

The 2007 amendment by No. 799 inserted present (11)(B), and redesignated former (11)(B) as (11)(C).

The 2007 amendment by No. 850 redesignated former (34)(D) as present (34)(D)(i) and added (34)(D)(ii).

The 2009 amendment by No. 616 inserted (11)(B)(iii), redesignated the subse-

quent subdivision accordingly, and made a related and a stylistic change.

The 2009 amendment by No. 774 inserted (17)(B)(ix)(b) and (17)(B)(ix)(c), and redesignated the remainder of (17)(B)(ix) accordingly.

The 2009 amendment by No. 1277 rewrote (34)(B)(i).

The 2011 amendment by No. 20 added (11)(D).

The 2011 amendment by No. 38 added the (40)(A) designation and (40)(B).

The 2011 amendment by No. 140 deleted “within six (6) months from July 1, 2005” at the end of (12)(B).

The 2011 amendment by No. 978 inserted “except as provided for public safety members covered under § 24-4-1004” at the end of (34)(A) and (34)(D)(i); and inserted “civilian firefighters of the State Military Department covered under § 24-4-1004” in (34)(B)(i)(b).

24-4-102. Penalty.

Any person who knowingly makes any false statements or who falsifies or permits to be falsified any record in an attempt to defraud the system as the result of such an act shall be guilty of a Class A misdemeanor.

History. Acts 1957, No. 177, § 5; 1959, 859, § 5; A.S.A. 1947, § 12-2505; Acts No. 42, § 5; 1965, No. 153, § 5; 1981, No. 2005, No. 1994, § 362.

24-4-106. Limitations.

(a)(1)(A) Notwithstanding any provisions to the contrary, it is considered sound public policy to limit contributions by public employers to one (1) state-authorized retirement plan. Accordingly, effective July 1, 1999, employers participating in the Arkansas Public Employees’ Retirement System shall not establish any other state-authorized plan that requires contributions by the employer.

(B) The Board of Trustees of the Arkansas Public Employees’ Retirement System shall promulgate such rules and regulations as are required to prohibit the establishment of such plans in the future.

(2) An employer who, in addition to participating in the system, has another state-authorized plan that was in existence on July 1, 1999, shall not be prohibited from:

(A) Changing vendors for the plan;

(B) Adding employees to the plan; or

(C) Modifying a plan pursuant to federal guidelines.

(3) If an employer merges with another employer and either employer has a plan that was in existence on July 1, 1999, then the merged entity may continue to provide the plan for employees of the entity.

(b) The system shall notify all participating employers on an annual basis of the requirements of this section and the board rules and regulations governing this subject.

(c) For the purpose of this section, “state-authorized plan” means any retirement plan authorized by state or federal law.

History. Acts 1999, No. 884, § 1; 2001, No. 1299, § 1.

24-4-108. Implementation of a contributory component.

(a)(1) It shall be considered sound public policy to encourage public employees in the State of Arkansas to participate in the development and growth of their individual retirement benefits.

(2) In order that the Arkansas Public Employees' Retirement System continues to maintain a strong funded status while ensuring that benefits provided to the annuitants and beneficiaries of the system maintain a constant purchasing power, it is incumbent upon the Board of Trustees of the Arkansas Public Employees' Retirement System to consider reintroducing employee contributions as a required provision of the plan structure.

(b)(1) In accordance with the rules and regulations of the board, there shall be an annual review of the actuarial valuation of the plan as provided by its actuary.

(2) During each annual review, the board shall consider the actuarial appropriateness of establishing a contributory component within the system.

(3) Issues to be considered are to include, but not be limited to:

(A) Mitigating additional increases in the employer contribution rate;

(B) The establishment of a tax deferral of employee contributions under Section 414(h) of the Internal Revenue Code of 1986, as in effect on January 1, 2003;

(C) The establishment of a time horizon in which current system members may elect contributory status; and

(D) The extent of benefit portability.

(c)(1) Beginning July 1, 2005, the board shall implement and establish a contributory plan for members of the system.

(2) The board shall develop policies and regulations from its annual review of the contributory component of the system and, as a minimum, the board's regulations shall provide for:

(A) The member contribution rate;

(B) The annual multiplier rate for benefits that a contributory member of the system shall receive upon becoming eligible to receive a retirement benefit;

(C) The combining of contributory and noncontributory service together to receive a retirement benefit from the system; and

(D) Any other contributory qualifications or requirements necessary to implement the contributory plan for the system.

History. Acts 2003, No. 339, § 1.

A.C.R.C. Notes. References to "this chapter" in §§ 24-4-101 — 24-4-107 and subchapters 2-10 of this chapter may not apply to this section, which was enacted

subsequently.

U.S. Code. Section 414(h) of the Internal Revenue Code of 1986, referred to in (b)(3)(B), is codified as 26 U.S.C.S. § 414(h).

24-4-109. Compliance with federal regulation.

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System shall promulgate rules as it deems necessary from time to time in order to fully comply with federal requirements that may affect the members or the members' benefits under this subchapter.

(b) In meeting its obligation to its members, the board may promulgate rules to:

(1) Establish the regular retirement age for members consistent with the provisions of Section 411 of the Internal Revenue Code; and

(2) Maintain the Arkansas Public Employees' Retirement System's retirement plan tax qualification status by the federal government to remain tax exempt and tax qualified under Section 401(a) of the Internal Revenue Code.

History. Acts 2009, No. 745, § 1.

SUBCHAPTER 2 — FUNDS AND MANAGEMENT OF ASSETS

SECTION.

24-4-201. Arkansas Public Employees' Retirement System Fund — Creation — System accounts.

24-4-202. Arkansas Public Employees' Retirement System Fund — Contributions.

24-4-205. State as trustee.

SECTION.

24-4-207. Bonds — Payments on vouchers and warrants — Adjustment of erroneous payments.

24-4-208. Reduction of annuities when funds inadequate.

24-4-212. No waiver of sovereign immunity.

Effective Dates. Acts 2001, No. 67, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees Retirement System this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2001."

Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately

so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2011, No. 38, § 11: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the public retirement systems provide economic security for eligible citizens of Arkansas; that the statutes need amending to update and clarify existing law; and that

these changes need to be made immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither

approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-4-201. Arkansas Public Employees' Retirement System Fund — Creation — System accounts.

(a)(1) There is established on the books of the Treasurer of State, the Auditor of State, and the Director of the Department of Finance and Administration a fund to be known as the "Arkansas Public Employees' Retirement System Fund".

(2) This fund shall consist of trust funds as provided by law and shall be used for the payment of personal services, operating expenses, investments, benefits, refunds, and for such other purposes as may be authorized by law.

(b)(1) The Board of Trustees of the Arkansas Public Employees' Retirement System shall have the authority to establish a division or divisions for the various participating employers as necessary to administer the Arkansas Public Employees' Retirement System.

(2) The retirement system accounts shall be the members' deposit account, the employers' accumulation account, the retirement reserve account, the income account, and such other accounts as the board shall establish from time to time.

History. Acts 1957, No. 177, § 4; 1959, No. 42, § 4; 1961, No. 64, § 2; 1981, No. 859, § 16; A.S.A. 1947, § 12-2504; Acts 1997, No. 299, § 8; 1999, No. 308, § 1; 2001, No. 67, § 2; 2001, No. 151, § 11.

CASE NOTES

Cited: Alltel Ark., Inc. v. Ark. Pub. Serv. Comm'n, 76 Ark. App. 547, 69 S.W.3d 889 (2002).

24-4-202. Arkansas Public Employees' Retirement System Fund — Contributions.

(a)(1) The state employer contributions provided for in § 24-2-701 shall be paid by state warrant, bank check, or electronic transfer by the state agency which employs each member.

(2) The employer's contribution shall be paid to the Arkansas Public Employees' Retirement System Fund at the time and with the frequency established by the Board of Trustees of the Arkansas Public Employees' Retirement System and shall be paid concurrently with the contributions made by its employees to the fund.

(b)(1) In the case of employees receiving part or all of their compensation from federal funds, the disbursing officer of the agency receiving the federal funds shall transmit such sums to the Arkansas Public Employees' Retirement System Fund from federal funds of the agency.

(2) These sums shall be those sums of money which are necessary to provide the employer contributions provided for in § 24-2-701, based on the portions of the employees' compensation payable from federal funds.

(c)(1) In the case of the Local Government Division of the Arkansas Public Employees' Retirement System, each participating public employer shall pay into the Arkansas Public Employees' Retirement System Fund such sums of money as are necessary to provide the participating public employer's contributions provided for in § 24-2-701.

(2) The participating public employer's contributions shall be paid at the time and with the frequency established by the board and shall be paid concurrently with the contributions made by its employees to the fund.

(3) The employer's contributions shall be transmitted to the Arkansas Public Employees' Retirement System Fund in such form and manner, together with such supporting data, as the board shall prescribe from time to time.

(d) In the case of circuit court reporters, the public employer contributions shall be paid, when directed by the board, by the respective counties in the proportion that each county pays the total salaries of the circuit court reporters.

(e)(1) If any participating public employer fails to remit to the Arkansas Public Employees' Retirement System those moneys which are required by law or regulation by the date and at the frequency established by the board, the system shall impose a penalty equal to the actuarially assumed rate of return on investments of the fund in the form of interest on an annual basis on the moneys due.

(2) This interest shall be computed on the actual days of delinquency and shall be paid to the system for the purpose of reimbursing the trust fund for the money which would have been earned on the moneys had they been paid when due.

(3) The interest penalty shall be determined by the system on the date the delinquent funds are received, and a statement of the interest shall be sent to the participating public employer.

(4) If the interest penalty or delinquent moneys are not received by the system by the last business day of the month in which the moneys were originally due, then the system shall cause the sums of moneys, including interest, to be transferred from any moneys due the participating public employer from the office of the Treasurer of State or the Department of Education as approved in § 19-5-106(a)(5).

(f)(1) If any participating public employer fails to file with the system the retirement report by the date established by the board, the system shall impose a penalty of one hundred fifty dollars (\$150) for each time the report is late.

(2) A statement of the penalty shall be sent to the participating employer.

(3) If the penalty is not received by the last business day of the month in which the report was due, then the system shall cause the amount to be transferred from any moneys due the participating public employer from the office of the Treasurer of State or the Department of Education as provided in § 19-5-106(a)(5).

History. Acts 1957, No. 177, § 4; 1959, No. 398, § 4; 1995, No. 1292, § 4; 1997, No. 42, § 4; 1961, No. 64, § 2; 1967, No. No. 76, § 5; 1997, No. 299, § 9; 2001, No. 108, § 1; 1977, No. 663, § 1; A.S.A. 1947, 151, § 12.
§ 12-2504; Acts 1993, No. 286, § 4; 1995,

24-4-205. State as trustee.

The promulgation of this chapter shall constitute an offer by the state to serve as trustee for the funds collected under the provisions of this chapter, as well as a guarantee that the disbursement thereof shall be in accordance with the provisions of this chapter and that none of the funds shall be used for any purpose except the purposes provided for in this chapter.

History. Acts 1957, No. 177, § 12; 1965, No. 153, § 13; A.S.A. 1947, § 12-1959, No. 42, § 12; 1961, No. 64, § 6; 2512; Acts 2001, No. 151, § 13.

24-4-207. Bonds — Payments on vouchers and warrants — Adjustment of erroneous payments.

(a)(1) The Executive Director of the Arkansas Public Employees' Retirement System and other employees shall make bonds to cover their liability for the faithful performance of their duties, from time to time as provided for by law.

(2) The cost of the bonds shall be paid from moneys provided for the administrative expenses of the Arkansas Public Employees' Retirement System.

(3) The Director of the Department of Finance and Administration is authorized and directed to designate such additional personnel within his or her office and to provide for such services as are necessary for the proper operation of the system.

(b)(1) The Treasurer of State shall pay annuities and make other disbursements authorized by this act only on vouchers signed by the executive director and on warrants issued thereon by the Auditor of State.

(2) No voucher or warrant shall be drawn on funds of the system unless it has been previously authorized by a specific or general resolution adopted by the Board of Trustees of the Arkansas Public Employees' Retirement System.

(c)(1)(A) Should any change or error in the records of the system or any audit of a member's annuity calculations result in any person's receiving more or less than the person would have been entitled to receive had the records or the calculations been correct, the board

shall correct the error and, as far as is equitable and practicable, shall adjust the payment in accordance with the provisions of this subsection and in such a manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

(B) However, no monthly adjustment of less than one dollar (\$1.00) shall be made.

(2)(A) The board shall have the right to recover any overpayment that any person may have received from funds of the system, provided the overpayment is determined and the person is so notified within one (1) year of the date of the last overpayment.

(B) If the overpayment is determined at a date later than one (1) year after the date of the first overpayment, the overpayment shall not be recouped by the board unless the overpayment is a result of an error on the part of a member, retirant, or beneficiary.

(C) In all instances where an overpayment is determined, any subsequent payments shall be adjusted to the correct amount.

(3) If it is determined that any person has received an underpayment from the funds of the system, regardless of the date of the determination, the system shall pay in a lump sum to the person the total of any underpayments made prior to the date of determination, and any subsequent payments shall be adjusted to the correct amount.

(4)(A) If the annuity amount is decreased upon the reconsideration, the matters involved in the decrease shall be set forth in writing and shall be subject to review upon the filing of an appeal thereof by the member or annuity recipient.

(B) The redetermination shall be deemed to be final and binding on all parties unless, within twenty (20) days after the mailing of notice of the redetermination to the member's last known address, or twenty (20) days after personal delivery of the notice to the member, an appeal thereof is filed with the Executive Director of the Arkansas Public Employees' Retirement System.

(C) The director shall promptly hear all appeals of annuity determinations or redeterminations and shall conduct such hearings in accordance with procedures set forth by the board.

History. Acts 1957, No. 177, § 5; 1959, No. 42, § 5; 1965, No. 153, § 5; 1981, No. 859, § 5; 1983, No. 677, § 6; A.S.A. 1947, § 12-2505; Acts 1993, No. 1093, § 1; 2001, No. 151, § 14; 2011, No. 38, § 3.

Amendments. The 2011 amendment by No. 38 substituted "last" for "first" in (c)(2)(A).

24-4-208. Reduction of annuities when funds inadequate.

(a)(1) If, at the end of any fiscal year, the total of the annuities paid during the fiscal year from the State Division of the retirement reserve account is more than twelve percent (12%) of the sum of the balances in the State Division of the Arkansas Public Employees' Retirement System of the employers' accumulation account and the retirement reserve account at the end of the fiscal year, the annuities payable to

state retirants and beneficiaries in the ensuing fiscal year shall be reduced pro rata.

(2) This reduction shall be made in such a manner that the total of the annuities so reduced shall not exceed twelve percent (12%) of the sum of the balances in the State Division of the employers' accumulation account and the retirement reserve account.

(3) The pro rata reduction shall be applied to all annuities payable to state retirants and beneficiaries during the ensuing fiscal year.

(b)(1) If, at the end of any fiscal year, the total of the annuities paid during the fiscal year from the Local Government Division of the Arkansas Public Employees' Retirement System of the retirement reserve account is more than twelve percent (12%) of the sum of the balances in the Local Government Division of the employers' accumulation account and the retirement reserve account at the end of the fiscal year, then the annuities payable to county retirants and beneficiaries in the ensuing fiscal year shall be reduced pro rata.

(2) This reduction shall be made in such a manner that the total of the annuities so reduced shall not exceed twelve percent (12%) of the sum of the balances in the Local Government Division of the employers' accumulation account and the retirement reserve account.

(3) The pro rata reduction shall be applied to all annuities payable to local government retirants and beneficiaries during the ensuing fiscal year.

History. Acts 1957, No. 177, § 12; 1965, No. 153, § 13; A.S.A. 1947, § 12-1959, No. 42, § 12; 1961, No. 64, § 6; 2512; Acts 2001, No. 151, § 15.

24-4-212. No waiver of sovereign immunity.

Nothing in this chapter shall be taken or interpreted as a waiver of the state's sovereign immunity.

History. Acts 2011, No. 38, § 4.

SUBCHAPTER 3 — MEMBERSHIP

SECTION.	SECTION.
24-4-301. Membership as condition to employment.	municipalities — Leased water and sewer utilities.
24-4-302. County employees included — Exceptions.	24-4-304. Credited service — Cessation of employment — Reemployment.
24-4-303. Membership — Election by mu-	

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is

declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2011, No. 737, § 2: Mar. 25, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is confusion as to whether Arkansas Code § 24-4-302 applies to nursing homes, assisted living facilities, and other health care facilities owned but not operated by counties; that this confusion has resulted in litigation against the counties; and that

this act is immediately necessary because county-owned nursing homes, assisted living facilities, and other health care facilities that are not operated by the county provide essential services to citizens of the state that are substantially similar to the services of hospitals, and without this clarification these facilities may cease to exist, which will cause irreparable harm to the people who depend on these facilities for day-to-day care. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-4-301. Membership as condition to employment.

(a)(1) Except as set forth in this subsection, all state employees, as defined in § 24-4-101(17) and (44), shall become members of the Arkansas Public Employees' Retirement System as a condition of employment.

(2)(A)(i)(a) A person who is first elected as a member of the General Assembly on or after July 1, 1999, shall have his or her employment covered as a regular state employee member in lieu of coverage under special provisions relating to General Assembly members or to elected officials.

(b) However, if the member's only service under an Arkansas retirement plan is service as a member of the General Assembly, the member must have ten (10) or more years of actual service to be eligible for benefits.

(ii)(a) A person who was first elected as a member of the General Assembly before July 1, 1999, may elect to have his or her employment covered as a regular state employee member in lieu of coverage under special provisions relating to General Assembly members or to elected officials. The member may make the election at any time.

(b) However, if the member's only service under an Arkansas retirement plan is service as a member of the General Assembly, then the member must have ten (10) or more years of actual service to be eligible for benefits.

(B) Any member of the General Assembly who was serving in that capacity at the commencement of the Eighty-fourth General Assembly and who had elected not to participate in the Arkansas Public Employees' Retirement System under the provisions of § 24-4-

301(a)(2)(A) prior to its amendment by Acts 2003, No. 1403, may elect to participate and receive current credit in the system. The member is eligible to receive prior service credit for the time he or she was first elected to the General Assembly until the date of election to participate provided that:

(i) The member pays, or causes to be paid, all employer contributions based on the employer's normal cost from the most recent actuarial valuation and the compensation that would have been paid had he or she been a member of the system during that time and regular interest on the employer contributions computed from the date the service was rendered to the date payment is received by the system;

(ii) The payment shall be made in a lump sum; and

(iii) The member may pay for all prior service, or a portion of the prior service, consisting of one-year increments.

(b) All county employees, as defined in § 24-4-101(14), (17), and (27), who are in the employ of a county July 1, 1959, and all persons who became or become county employees in the employ of a county after June 30, 1959, shall become members of the system as a condition of continuing in or obtaining county employment, as the case may be.

(c) All municipal employees, as defined in § 24-4-101(17), (24), and (27) who are in the employ of a municipality as of the date the municipality becomes a participating public employer and all persons who become municipal employees in the employ of a municipality on or after the date it becomes a participating public employer shall become members of the system as a condition of continuing in or entering the employ of the municipality. However, no employee shall be included whose compensation is less than one thousand five hundred dollars (\$1,500) per annum.

(d) All nonstate employees as defined in § 24-4-101(17), (22), (27), and (33), who are in the employ of a nonstate employer as of the date the nonstate employer becomes a participating public employer and all persons who become nonstate employees in the employ of a nonstate employer on or after the date it becomes a participating public employer shall become members of the system as a condition of continuing in or entering the employ of the nonstate employer.

(e)(1) From and after July 1, 1973, all elected and appointed state and county constitutional officials shall be or become members of the system.

(2) Any current member of the system who has service prior to July 1, 1973, as an elected or appointed constitutional official, which service is not credited to his or her retirement account because the member elected not to become a member of the system during that time, shall receive credited service for that time, but only if:

(A) The person is a contributing member of the system on the date the service is purchased and the person has at the time of purchase at least two (2) years of credited service in the system;

(B) The member buys all of the service rendered during the period of time in which he or she did not participate in the system; and

(C) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member of the system during that period of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

History. Acts 1957, No. 177, § 6; 1959, No. 42, § 6; 1961, No. 64, § 3; 1973, No. 586, § 1; 1975, No. 577, § 1; A.S.A. 1947, § 12-2506; Acts 1987, No. 57, § 1; 1997, No. 299, § 12; 1999, No. 705, § 1; 2001, No. 151, § 16; 2003, No. 1403, § 1; 2007, No. 176, § 4.

A.C.R.C. Notes. The reference in (a)(2)(B) to “the provisions of § 24-4-301(a)(2)(A) prior to its amendment by Acts 2003, No. 1403” is a reference to the version of subdivision (a)(2)(A) repealed by Acts 2003, No. 1403. Acts 2003, No. 1403 also redesignated former subdivision (a)(2)(C) as present subdivision (a)(2)(A).

Former subdivision (a)(2)(A) read as follows: “Membership in the system shall not be mandatory for any member of the General Assembly who notifies the system in writing of his or her decision not to participate. The member may elect not to participate for all or any part of his or her service or benefits as a member of the General Assembly. The member may make the election at any time.”

Amendments. The 2007 amendment substituted “one thousand five hundred dollars (\$1,500)” for “six hundred dollars (\$600)” in (c).

24-4-302. County employees included — Exceptions.

All counties in this state shall be subject to the provisions of this act as participating public employers, and all counties shall, from and after July 30, 1959, include their employees, as defined in § 24-4-101(14), (17), and (27), in the membership of the Arkansas Public Employees' Retirement System, except as follows:

(1) Any newly constructed county-owned and operated hospital which was first placed in use after December 1, 1975, may elect, by at least a two-thirds ($\frac{2}{3}$) vote of its governing body, to exclude the employees of the hospital from membership in the system, but only if the election was certified to the Board of Trustees of the Arkansas Public Employees' Retirement System prior to July 1, 1976. However, any hospital electing to exclude its employees from membership under the provisions of this subdivision (1) shall require its employees to become members of the system effective July 1, 1978;

(2) A hospital which is owned but not operated by a county and which, subsequent to June 30, 1963, becomes operated by a county, may elect, by at least a two-thirds ($\frac{2}{3}$) vote of its governing body, to exclude its employees of the hospital from membership in the system, but only if the election is certified to the board within a period of one (1) year from and after the date the hospital becomes operated by a county;

(3)(A) In the event the governing body of a county-owned and operated hospital elects to exclude its employees from membership in the system, the employees of the hospital shall thereupon cease to be members of the system.

(B) Any balances standing to the credit of the members in the members' deposit account shall be returned to the members.

(C) If any hospital elects, after February 1, 1971, and prior to July 1, 1972, to exclude its members from the system, the contributions made to the system by or on behalf of the hospital that are in excess of the amounts determined by actuarial calculations to be necessary to fund the outstanding obligations of the system to employees of the withdrawing hospital shall be returned to the withdrawing hospital;

(4)(A) A hospital which, as of June 30, 1988, is owned and operated by a county and which has failed to participate in the system may elect to exclude the employees of the hospital from membership in the system by at least a two-thirds ($\frac{2}{3}$) vote of its governing body.

(B) Neither employees of the hospital nor the hospital itself shall be liable or eligible to pay any past contribution which may have been due the system, but only if the election is certified to the board prior to July 1, 1990; and

(5) A nursing home, assisted living facility, or health care facility that is:

(A) Owned but not operated by a county may elect by a vote of at least two-thirds ($\frac{2}{3}$) of its governing body to exclude employees of the facility from membership in the system but only if the election is certified to the Board of Trustees of the Arkansas Public Employees' Retirement System within one (1) year from March 25, 2011; and

(B) Constructed or acquired by a county after March 25, 2011, but not operated by a county may elect by a vote of at least two-thirds ($\frac{2}{3}$) of its governing body to exclude employees of the facility from membership in the system but only if the election is certified to the Board of Trustees of the Arkansas Public Employees' Retirement System within one (1) year from the date of the beginning of operations after construction or acquisition.

History. Acts 1957, No. 177, § 6; 1959, No. 42, § 6; 1961, No. 64, § 3; 1963, No. 56, § 1; 1969, No. 476, § 1; 1971, No. 303, § 1; 1975 (Extended Sess., 1976), No. 1187, § 1; A.S.A. 1947, § 12-2506; reen. Acts 1987, No. 998, § 1; 1989, No. 50, § 1; 2001, No. 151, § 17; 2011, No. 737, § 1.

Amendments. The 2011 amendment added (5).

24-4-303. Membership — Election by municipalities — Leased water and sewer utilities.

(a)(1)(A) Any municipality may elect to become a participating public employer and to cover its employees under the Arkansas Public Employees' Retirement System either by a three-fifths ($\frac{3}{5}$) vote of its governing body or by a majority vote of the qualified voters of the municipality.

(B) However, the mayor and city clerk of a city of the first class who are serving in a municipality that participates in the system shall become participating employees under the system upon taking office.

(C)(i) If the employee elects not to continue participation in the system and opts to participate in the local retirement plan as

provided under § 24-12-121 or § 24-12-123, instead, written notice of the election shall be presented to the system in a form determined acceptable by the system not later than ninety (90) calendar days after first assuming office.

(ii) The election under subdivision (a)(1)(C)(i) of this section is irrevocable.

(iii) Employer contributions made to the system on behalf of employees who elect not to continue participation will be refunded to the city without interest, and the associated service credit in the system is forfeited.

(2) If a newly elected city attorney or city treasurer of a city of the first class is otherwise covered under a local retirement fund, then the provisions of subdivisions (a)(1)(B) and (C) of this section also apply to those offices.

(3) The clerk or recorder of each municipality electing to become a participating public employer shall certify the vote to the Board of Trustees of the Arkansas Public Employees' Retirement System within ten (10) days after the vote of the governing body or the canvass of the votes of the electorate, as the case may be.

(4) The effective date of coverage under the system shall be either the first day of the calendar month next following receipt by the board of the election results or the July 1 next following the receipt, as determined by the vote.

(5)(A) If a municipal employee or a former municipal employee covered by the system in a municipality with a city administration of justice fund created under § 16-10-308 that exists to provide a pension fund for the position held by the employee or former employee elects to establish participation in the public retirement system under § 24-12-101 et seq., and to waive any rights the employee or former employee may have had, or would otherwise have, in the local retirement system, then:

(i) The employee or former employee may transfer his or her service credit to the system; and

(ii) The municipality for which he or she is or was serving in the capacity as a district judge, may use the funds within the city's administration of justice fund to pay all contributions and interest required by the system to transfer the service credit to the system.

(B) In addition, if any employee or former employee covered by the city's administration of justice fund has transferred or does transfer service credit to the system anytime after January 1, 2000, and if the municipality has used general revenue funds to pay the contribution required to fund the transfer, or if the municipality has used the city's administration of justice fund to fund the transfer, then the city's administration of justice fund shall not be refunded. However, if general funds were used, the city may reimburse the general fund from the city's administration of justice fund for the contribution paid on behalf of the employee or former employee.

(C)(i) In addition to paying for the transfer of service credit for the position for which the fund is created, the municipality may also pay

from the city's administration of justice fund on behalf of the employee or former employee for any additional transfer of service credit the employee or former employee elects to make regarding time as city attorney for the municipality.

(ii) The municipality may reimburse itself for any payment from the city's administration of justice fund to fund the transfer made from its general fund after January 1, 2000, on behalf of the employee or former employee to purchase city attorney service credit in the system.

(iii) If any payment for the service has been made directly from the city's administration of justice fund after January 1, 2000, the municipality shall not be required to reimburse the city's administration of justice fund for those transfers.

(iv) If a transfer from the general fund is made to the city's administration of justice fund after payment from the city's administration of justice fund for the service credit transfers and before the effective date of this subdivision (a)(5), the municipality is entitled to reimburse the general fund from the city's administration of justice fund for the amount of the transfers.

(b)(1) Any municipality which has as of March 28, 1981, taken its first vote to withdraw from participation shall be eligible to withdraw under the provisions of this section if the final vote to withdraw is certified to the board before July 1, 1981.

(2) The effective date of withdrawal must be before January 1, 1982.

(c)(1) When the water and sewer department of a municipal participating public employer in a city of the first class becomes leased from the municipality and operated by a nonprofit corporation, the mayor shall notify the board in writing within ten (10) days after the utility ceases to be operated by the municipality and may request a refund of the employer contributions paid to the system by the municipality on behalf of the utility employees during their period of employment with the utility.

(2) As soon as practicable after notification and request, the board shall arrange for a determination by its actuary or investment counselor of the lump sum present value of future system benefits for retirants, beneficiaries, and inactive members entitled to a deferred annuity from the employment with the utility while it was operated by the municipality.

(3) The refund requested shall be subject to the following:

(A)(i) If the present value is more than the present system assets arising from the municipality's applicable contributions, then the difference determined by the system's actuary shall be paid to the system by the municipality, either in a single sum or in a series of actuarially equivalent payments over a period not to exceed ten (10) years.

(ii) The payment method shall be elected by the municipality from reasonable optional payment methods to be offered by the board;

(B) If the present value is less than the present system assets arising from the municipality's applicable contributions, then the

difference determined by the system's actuary shall be paid by the system to the municipality, either in a single sum or in a series of actuarially equivalent payments over a period not to exceed ten (10) years as the board shall determine;

(C) The board shall withhold twenty percent (20%) from the municipality's applicable employer contributions and shall maintain that amount in the employer accumulation account for noncontributory utility employees who may reenter the system and have their forfeited utility service restored to their credit;

(D) From and after the date the utility ceased to be operated by the municipality:

(i) The system shall have no further obligation for payment of benefits for the municipality's employees, which benefits would be based on service with the utility, except for any refund of contributions due a former member from the members' deposit account; and

(ii) The system shall retain the obligation for payment of benefits for the retirant and beneficiaries and inactive members entitled to a deferred annuity from employment with the utility while it was operated by the municipality, except that the retained obligation shall be reduced by any payment overdue or not paid to the system by the municipality for service of its utility employees before the municipality ceased operating the utility.

History. Acts 1957, No. 177, § 6; 1961, § 12-2506; Acts 1987, No. 376, § 1; 2003, No. 64, § 3; 1971, No. 228, § 1; 1973, No. No. 1281, § 1.
586, § 2; 1981, No. 882, § 1; A.S.A. 1947,

24-4-304. Credited service — Cessation of employment — Reemployment.

(a)(1)(A) When a member is no longer employed in a position covered by the Arkansas Public Employees' Retirement System, he or she shall thereupon cease to be a member.

(B) Except as otherwise provided in this chapter, upon termination of his or her membership, a member's credited service is forfeited.

(2) If the person is not a retirant and becomes reemployed in a position covered by the system, the person shall become a member of the system, and the person's credited service which did not require member contributions and then was forfeited by him or her at termination of covered employment shall be restored to his or her credit.

(b)(1) Upon a member's retirement, he or she shall cease to be a member.

(2) Except as provided otherwise in this chapter, he or she shall not again become a member.

(c) Should a former member entitled to a deferred annuity provided for in § 24-4-510 become employed in a position covered by the system before becoming a retirant, the member shall thereupon cease to be entitled to a deferred annuity and shall become a member with his or her last credited service reinstated.

History. Acts 1957, No. 177, § 7; 1959, No. 42, § 7; 1971, No. 190, § 1; A.S.A. 1947, § 12-2507; Acts 1989, No. 160, § 2; 1993, No. 1104, § 1; 2001, No. 151, § 18.

SUBCHAPTER 4 — EMPLOYER AND EMPLOYEE CONTRIBUTIONS

SECTION.	SECTION.
24-4-401. Contributions of members.	24-4-402. Contributions of state and local government division employers — Accounts of retirement system. [Effective January 1, 2012.]
24-4-402. Contributions of state and local government division employers — Accounts of retirement system. [Effective until January 1, 2012.]	

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: “It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration

of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”
Acts 2005, No. 2084, § 5: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees’ Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005.”
Acts 2011, No. 558, § 3: Effective on and after Jan. 1, 2012.

24-4-401. Contributions of members.

- (a)(1) The members’ deposit account shall be the account in which members’ contributions shall be accumulated with interest as stipulated by § 24-4-209(a) and from which shall be made transfers and refunds of contributions or accumulated contributions as provided in this act.
- (2) Upon the retirement of a member, his or her accumulated contributions standing to his or her credit in the members’ deposit account shall be transferred to the retirement reserve account.
- (b)(1)(A) Until July 1, 2005, the contributions of a contributory member shall be six percent (6%) of the member’s annual compensation.

(B) Beginning July 1, 2005, the contribution rate shall be five percent (5%) of the member's annual compensation for a contributory member.

(C) The member's deposit account shall be credited interest at a rate of four percent (4%) per annum beginning July 1, 2005.

(2) The officer responsible for making up the payroll for each public employer shall cause the contributions provided for in this section to be deducted from the compensation of each member in the employ of a public employer.

(3) The contributions shall be deducted on every payroll, for every payroll period, from the date of the member's entrance into the Arkansas Public Employees' Retirement System to the date his or her membership terminates.

(4) When deducted, each of the amounts shall be paid by the public employer to the Arkansas Public Employees' Retirement System Fund and shall be credited to the individual account in the members' deposit account of the member from whose compensation the contributions were deducted.

(5) The contributions provided for in this section shall be made notwithstanding that the minimum salary or wages for any member shall be thereby changed.

(6) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(7) Payment of a member's compensation less deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered to a public employer by the member, except as to benefits provided by this act.

(c)(1) The official designated by the board of each participating public employer shall remit to the board the contributions deducted from the compensations of members in the employ of the employer.

(2) The remittances shall be made in such manner and form, shall be made in such frequency, and shall from time to time be accompanied by such supporting data as the board shall prescribe.

(d) It is expressly guaranteed that all members' contributions shall be held in trust for the exclusive benefit of the individual members and that no part of the funds shall ever be used for any other purpose.

History. Acts 1957, No. 177, § 8; 1959, 907, § 10; A.S.A. 1947, §§ 12-2508, 12-No. 42, § 8; 1965, No. 153, § 6; 1967, No. 2508.1; Acts 1997, No. 299, § 13; 2001, 108, § 2; 1969, No. 632, § 1; 1971, No. No. 151, § 19; 2005, No. 2084, § 1. 103, § 2; 1973, No. 666, § 2; 1975, No.

24-4-402. Contributions of state and local government division employers — Accounts of retirement system. [Effective until January 1, 2012.]

(a)(1) The employers' accumulation account shall be the account in which shall be accumulated the contributions made by public employers to the Arkansas Public Employees' Retirement System.

(2) Upon the retirement of a member, the difference between the member's annuity reserve and his or her accumulated contributions standing to his or her credit in the members' deposit account shall be transferred from the employers' accumulation account to the retirement reserve account.

(b)(1) The state employer contributions shall be a set percentage rate of the compensations of state employees who are members. The rate of percentage shall be set by the Board of Trustees of the Arkansas Public Employees' Retirement System as provided for by § 24-2-701.

(2) The state's contributions, when paid into the Arkansas Public Employees' Retirement System Fund, shall be credited to the employers' accumulation account.

(c)(1) The employer contributions to be paid by each participating public employer, other than the state, shall be a set percentage rate of the compensations of its employees who are members. The rate of percentage shall be set by the board as provided for by § 24-2-701.

(2) The participating public employers' contributions, when paid into the fund, shall be credited to the employers' accumulation account.

(d)(1) The retirement reserve account shall be the account from which all annuities shall be paid as provided for in this act.

(2) If a disability retirant returns to the employ of a public employer, the retirant's annuity reserve at that time shall be transferred from the retirement reserve account to the members' deposit account and the employers' accumulation account in the same proportion as the annuity reserve was originally transferred to the retirement reserve account.

(e)(1) The income account shall be the account to which shall be credited all interest, dividends, and other income from investments of the system, all gifts and bequests received by the system, and all other moneys, the disposition of which is not specifically provided for in this act.

(2) There shall be paid or transferred from the income account all amounts required to credit regular interest to the various divisions of the members' deposit account, employers' accumulation account, and the retirement reserve account, as provided in this act.

(3) Whenever the board determines that the balance in the income account is more than sufficient to cover current charges to the account, the excess may be transferred by the board to any of the other accounts of the system to cover special needs of the accounts.

History. Acts 1957, No. 177, § 9; 1959, No. 42, § 9; 1961, No. 64, § 4; 1967, No. 175, § 1; 1969, No. 632, § 2; 1971, No. 103, § 3; 1973, No. 666, § 3; 1975, No. 907, § 11; A.S.A. 1947, §§ 12-2509, 12-

2509.1; Acts 1997, No. 299, § 14; 2001, No. 151, § 20.

Publisher's Notes. For text of section effective January 1, 2012, see the following version.

24-4-402. Contributions of state and local government division employers — Accounts of retirement system. [Effective January 1, 2012.]

(a)(1) The employers' accumulation account shall be the account in which shall be accumulated the contributions made by public employers to the Arkansas Public Employees' Retirement System.

(2) Upon the retirement of a member, the difference between the member's annuity reserve and his or her accumulated contributions standing to his or her credit in the members' deposit account shall be transferred from the employers' accumulation account to the retirement reserve account.

(b)(1) The state employer contributions shall be a set percentage rate of the compensations of state employees who are active members as well as those retired members who have returned to work under § 24-4-520. The rate of percentage shall be set by the Board of Trustees of the Arkansas Public Employees' Retirement System as provided for by § 24-2-701.

(2) The state's contributions, when paid into the Arkansas Public Employees' Retirement System Fund, shall be credited to the employers' accumulation account.

(c)(1) The employer contributions to be paid by each participating public employer, other than the state, shall be a set percentage rate of the compensations of its employees who are active members as well as those retired members who have returned to work under § 24-4-520. The rate of percentage shall be set by the board as provided for by § 24-2-701.

(2) The participating public employers' contributions, when paid into the fund, shall be credited to the employers' accumulation account.

(d)(1) The retirement reserve account shall be the account from which all annuities shall be paid as provided for in this act.

(2) If a disability retirant returns to the employ of a public employer, the retirant's annuity reserve at that time shall be transferred from the retirement reserve account to the members' deposit account and the employers' accumulation account in the same proportion as the annuity reserve was originally transferred to the retirement reserve account.

(e)(1) The income account shall be the account to which shall be credited all interest, dividends, and other income from investments of the system, all gifts and bequests received by the system, and all other moneys, the disposition of which is not specifically provided for in this act.

(2) There shall be paid or transferred from the income account all amounts required to credit regular interest to the various divisions of the members' deposit account, employers' accumulation account, and the retirement reserve account, as provided in this act.

(3) Whenever the board determines that the balance in the income account is more than sufficient to cover current charges to the account, the excess may be transferred by the board to any of the other accounts of the system to cover special needs of the accounts.

History. Acts 1957, No. 177, § 9; 1959, No. 42, § 9; 1961, No. 64, § 4; 1967, No. 175, § 1; 1969, No. 632, § 2; 1971, No. 103, § 3; 1973, No. 666, § 3; 1975, No. 907, § 11; A.S.A. 1947, §§ 12-2509, 12-2509.1; Acts 1997, No. 299, § 14; 2001, No. 151, § 20; 2011, No. 558, § 1.

Publisher's Notes. For text of section effective until January 1, 2012, see the preceding version.

Amendments. The 2011 amendment substituted "active members as well as those retired members who have returned to work under § 24-4-520" for "members" in (b)(1) and (c)(1).

Effective Dates. Acts 2011, No. 558 § 3: effective on and after Jan. 1, 2012.

SUBCHAPTER 5 — CREDITED SERVICE AND ELIGIBILITY FOR BENEFITS

SECTION.

- 24-4-501. Prior service credit generally — Straight life annuity.
- 24-4-507. Eligibility for benefits — Credited service.
- 24-4-508. Eligibility for benefits — Retirement generally.
- 24-4-510. Eligibility for benefits — Deferred and early annuities.
- 24-4-511. Eligibility for benefits — Disability retirement.
- 24-4-513. [Repealed.]
- 24-4-514. Credit for educational leave.

SECTION.

- 24-4-517. State service under a federal grant.
- 24-4-518. Credit for service as sheriff.
- 24-4-520. Termination required for retirement.
- 24-4-521. Credited service generally.
- 24-4-522. Applicability of benefit provisions.
- 24-4-523. Conversion from contributory to noncontributory plan — Extension of time.

Effective Dates. Acts 2001, No. 151, § 69; Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 154, § 3; Feb. 8, 2001. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that the thirty-day requirement for termination of employment applies to all members of the Public Employees' Retirement System; that members of the retirement system earn service credit at different rates; that the same requirement for termination of employment is inequitable and this change must be implemented to correct that inequity; and this act should therefore have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1297, § 3; July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third

General Assembly that early retirement penalties for the Public Employees' Retirement System are overly harsh, that incentives for public employees to retire will improve staff morale and the working environment, and that the beginning of the fiscal year is the most advantageous time to implement benefit changes with the Public Employees' Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 652, § 3: Mar. 7, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are elected public officials that are eligible for retirement from that office but run for public office in another form of government; that once a retiree begins receiving retirement benefits current law requires a break in service before assuming another elected office; and that this act will allow an elected public official in one form of government to retire and to begin serving as an elected official in another form of government without a break in service. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 657, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the country is in a recession, that the state retirement systems have suffered from the failing economy, that increasing the time period that a member must be terminated from employment in order not to rescind his or her retirement benefits will benefit the Arkansas Public Employees' Retirement System, and that it is considered sound public policy to increase this time period. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2009."

Acts 2011, No. 38, § 11: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the public retirement systems provide economic security for eligible citizens of Arkansas; that the statutes need amending to update and clarify existing law; and that these changes need to be made immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 40, § 2: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that recent reports indicate that some members of the Arkansas Public Employees' Retirement System were merely taking themselves off of the payroll for the specified period of time while continuing to perform their duties so that they could draw retirement in addition to their wages; that clarification is needed to prevent this from happening; and that this clarification is needed immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 563, § 2: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the nation is in an economic downturn; that the Arkansas Public Employees' Retirement System has suffered significant losses in its portfolio; that allowing elected public officials to accrue two (2) years of service for every year worked costs the system additional

funds; and that all other employees in the Arkansas Public Employees' Retirement System receive one (1) year of service for every year worked. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 774, § 2: Mar. 30, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state retirement systems have suffered from recent economic conditions; that increasing the time period that a member must be terminated from employment in order not to rescind his or her retirement benefits will benefit the Arkansas Public Em-

ployees' Retirement System; that it is sound public policy to increase this time period; and that this act is immediately necessary to avoid further depletion of the Arkansas Public Employees' Retirement System assets. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) the date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-4-501. Prior service credit generally — Straight life annuity.

(a)(1) Any member of the Arkansas Public Employees' Retirement System who became a member of the system on July 1, 1957, in the case of a state employee, or who became a member of the system on July 1, 1959, in the case of a county employee, and who was continuously employed by a public employer to June 8, 1961, upon application and submission of proper proof to the Board of Trustees of the Arkansas Public Employees' Retirement System, as authorized by this chapter, may receive prior service credit for any service rendered a public employer, as defined in § 24-4-101, in the State of Arkansas in a position covered by some other existing retirement system of this state authorized by law, other than social security.

(2) Prior service credit may be received only if the member does not have standing to his or her credit in the other retirement system for the same period of time and is no longer a member of, or eligible for membership in, or receiving benefits from, the other retirement system or systems.

(b) Any active member of the Arkansas Public Employees' Retirement System who would otherwise be eligible for free prior service credit under the provisions of this chapter because of employment with a public employer or with the public schools but who was drafted and was serving in the military on active duty on a date which would have made the member eligible for the free prior service had the member been an employee on that date shall receive, upon application and submission of proper proof to the board, free prior service credit for employment prior to July 1, 1957, in the case of a state, municipal, or school employee, or prior to July 1, 1959, in the case of a county employee, if the following conditions are met:

(1) The member was an employee of a public employer immediately preceding his or her involuntary service in the armed forces; and

(2) The member was reemployed as an employee within six (6) months of his or her discharge from the armed forces of the United States.

(c) For the purposes of this subsection, prior service credit eligibility dates are:

- (1) July 1, 1957, for state employees;
 - (2) July 1, 1959, for county employees;
 - (3) October 1, 1957, and October 1, 1965, for school employees;
 - (4) July 1, 1957, and January 1, 1963, for colleges and universities;
- or

(5) The date the employer begins participation in the Arkansas Public Employees' Retirement System, for municipalities.

History. Acts 1961, No. 119, §§ 1, 2;
A.S.A. 1947, §§ 12-2522, 12-2523; Acts
1987, No. 32, § 1; 2001, No. 151, § 21.

24-4-507. Eligibility for benefits — Credited service.

(a)(1) The Board of Trustees of the Arkansas Public Employees' Retirement System shall determine, by appropriate rules and regulations consistent with the provisions of this chapter, the amount of service to be credited any member for any fiscal year.

(2)(A) For periods of time prior to July 1, 1991, in no case shall less than ten (10) days of service rendered by a member in any calendar month be credited as a month of service, nor shall less than eleven (11) months of service rendered by a member in any fiscal year be credited as a year of service unless the member is employed by the state blind and deaf schools, the state colleges and universities, or the public schools of the state, in which case nine (9) months would constitute a year of credited service.

(B) For periods of time prior to July 1, 1991, in no case can less than nine (9) months of service rendered in any fiscal year be credited as a full year of service, nor shall more than one (1) year of service be credited any member for all service rendered by him or her in a fiscal year.

(3)(A) Beginning July 1, 1992, and thereafter, service rendered by a member in any calendar month shall be credited as service based upon the member's number of hours of service in that month and in accordance with the following schedule:

Eighty (80) or more hours of service	One (1) month
Sixty (60) hours up to less than eighty	
(80) hours	Three-fourths (¾) month
Forty (40) hours up to less than sixty	
(60) hours	One-half (½) month
Twenty (20) hours up to less than forty	
(40) hours	One-quarter (¼) month
Less than twenty (20) hours	No credit

(B) Beginning July 1, 1991, in no case shall less than eleven (11) months of service rendered by a member in any fiscal year be credited as a full year of service, except that the minimum shall be lowered to nine (9) months for a member whose covered employment is employment with the state blind and deaf schools, the state colleges and universities, or the public schools.

(C) Any member who retires on or after July 1, 1999, shall receive six (6) months of service credit for each full semester of service rendered in any fiscal year for covered employment with the state blind and deaf schools, the state colleges and universities, or the public schools of the state.

(4) Prior service credits shall not be granted to any member who did not become a member of the Arkansas Public Employees' Retirement System on the date his or her public employer became a participating public employer, nor shall current service credit be granted any member for any period of time not covered by accumulated contributions standing to his or her credit in the members' deposit account, except as otherwise provided in this chapter.

(b)(1) A member's credited service shall include periods of time, not to exceed a total of five (5) years, during which the member's employment with a public employer was, or is, interrupted due to service rendered by him or her in the armed forces of the United States during a national emergency, but only if:

(A) The person was, or is, an employee of a public employer at the time he or she entered, or enters the armed services;

(B) The person was, or is, reemployed by a public employer within six (6) years from and after the termination of the armed service required of him or her; and

(C) The person returns to the members' deposit account the amounts withdrawn by him or her, together with regular interest from the date of withdrawal to the date of repayment.

(2) In any case of doubt as to the period to be so credited any member, the board shall have the final power to determine the period.

(3) During the period of a member's armed service and until his or her return to the employ of a public employer, a member's contributions to the system shall be suspended.

(4) In no case shall the period of armed service be included in computing a member's average compensation.

History. Acts 1957, No. 177, § 10; 1959, No. 42, § 10; 1965, No. 153, §§ 9, 10; 1969, No. 313, § 3; 1975, No. 907, § 6; 1981, No. 859, § 3; A.S.A. 1947, § 12-2510; Acts 1991, No. 757, § 1; 1999, No. 325, § 7; 2001, No. 151, § 22; 2011, No. 38, § 6.

Amendments. The 2011 amendment added "nor shall more than one (1) year of service be credited any member for all service rendered by him or her in a fiscal year" at the end of (a)(2)(B).

24-4-508. Eligibility for benefits — Retirement generally.

(a) Any member may voluntarily retire upon his or her written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of the application, that he or she desires to be retired if that member has:

(1) Twenty-eight (28) or more years of credited service regardless of age;

(2) Attained or attains age sixty (60) and has twenty (20) or more years of actual contributory service commenced prior to January 1, 1978; or

(3) Attained or attains age sixty-five (65) and has five (5) or more years of actual service, except for a member of the General Assembly who must have ten (10) or more years of actual service if he or she only has service as a member of the General Assembly.

(b)(1) Total credited service to qualify for a benefit may be service with the Arkansas Public Employees' Retirement System and service with the University of Arkansas System, which service is covered by the retirement system recognized by the University of Arkansas.

(2) The benefit payable by the Arkansas Public Employees' Retirement System shall be based on credited service in the system and on the final average compensation in the system. However, should a member have less than four (4) years of credited service in the system, "final average compensation" means the monthly average of pays to the member during his or her total years of service in the system.

(c)(1) An annuity determination shall be made promptly by the Arkansas Public Employees' Retirement System upon a member's filing a written application for retirement in accordance with subsection (a) of this section.

(2) The determination shall include the member's total years of credited service, the specific factors used to make the determination, the base annuity payable to the member, and the amount of annuity payments, if any, payable under the annuity options of § 24-4-606.

(3) If the member is not eligible for a retirement annuity, the determination shall state the reasons for the determination.

(d) A member's retirement election is irrevocable except under circumstances as may be permitted by the board by regulation.

History. Acts 1957, No. 177, § 10; 1959, No. 42, § 10; 1965, No. 153, § 7; 1969, No. 228, § 1; 1985, No. 938, § 2; A.S.A. 1947, § 12-2510; Acts 1993, No. 1093, § 2; 1997, No. 299, § 15; 1999, No. 104, § 2; 1999, No. 627, § 1; 2001, No. 151, § 23; 2007, No. 176, § 5; 2011, No. 38, § 7.

Amendments. The 2007 amendment inserted "commenced prior to January 1, 1978" in (a)(2).

The 2011 amendment added (d).

24-4-510. Eligibility for benefits — Deferred and early annuities.

(a)(1)(A) Any member or former member with sufficient years of actual service to qualify for a vested termination annuity who has not attained his or her normal retirement age may retire with an early annuity provided for in subsection (b) of this section upon his or her written application to the plan setting forth at what time, not less than thirty (30) days nor more than ninety (90)* days subsequent to the execution and filing of his or her application, he or she desires to be retired.

(B) The member or former member eligible for a vested termination annuity must have at least five (5) years of actual service and be within ten (10) years of normal retirement age, except for members of the General Assembly who must have at least ten (10) years of actual service and be within ten (10) years of normal retirement age.

(2)(A) Upon early retirement, a member shall receive a certain percentage of an annuity for life provided for in § 24-4-601. The percentage shall be one hundred percent (100%) reduced by one-half of one percent (0.5%) multiplied by the number of months by which the member's age at early retirement is younger than his or her normal retirement age, using what his or her normal retirement age would have been under the provisions of § 24-4-508 if he or she had continued covered employment from the time of early retirement.

(B)(i) However, if the member or former member has at least twenty-five (25) years of actual service but less than twenty-eight (28) years of actual service and has not reached age sixty-five (65), then upon early retirement the member shall receive a percentage of a life annuity as provided in § 24-4-601. The percentage shall be one hundred percent (100%) reduced by one percent (1%) multiplied by the number of months by which the time of early retirement precedes the earlier of either the completion of twenty-eight (28) years of actual service or the attainment of age sixty-five (65).

(ii) If the reduction set forth under this subdivision (a)(2)(B) is greater than the reduction that would have otherwise been imposed except for this subdivision (a)(2)(B), then the lesser reduction shall apply.

(3) The early annuity shall be effective the first day of the calendar month next following the later of termination of public employer employment or thirty (30) days after receipt by the Board of Trustees of the Arkansas Public Employees' Retirement System of the written application.

(b)(1) A member who terminates covered employment before attaining his or her normal retirement age for a reason other than death or early retirement or disability retirement shall be entitled to an annuity computed in accordance with the provisions of subdivision (b)(2) of this section as it provides at time of last termination of employment, subject to the member's satisfying all of the following conditions:

(A) Except for members of the General Assembly, who must have at least ten (10) years of actual service, the member has five (5) or more years of total actual service with the Arkansas Public Employees' Retirement System or in combination with reciprocal systems under the provisions of §§ 24-2-401 — 24-2-405, and 24-2-407. In establishing the minimum total credited service, periods of credited service covering the same calendar time shall be counted only once. However, both service in the Arkansas Public Employees' Retirement System as a member of the General Assembly and service in another reciprocal system during the same period of time may be counted to meet the service requirements for benefits from the reciprocal systems, subject to the following:

(i) The provisions of § 24-4-521 may not be used to meet the service requirements; and

(ii) The benefit payable by a reciprocal system will be based on the credited service in that system and on the final average compensation under that system;

(B) If a member has fewer years of service than the final average compensation requirement in a reciprocal system, then "final average compensation" means the monthly average of pay to the member during his or her total years of service in that system;

(C) The member lives to his or her annuity starting date; and

(D) The member makes written application for retirement in accordance with this section.

(2)(A) A contributory member with twenty (20) or more years of actual service who left or leaves the employ of a public employer prior to the member's attainment of age sixty (60) for any reason except his or her retirement or death shall be entitled to an annuity provided for in § 24-4-601, but only if the member does not withdraw his or her accumulated contributions from the members' deposit account.

(B) The member's annuity shall begin the first day of the calendar month next following the month after his or her attainment of age sixty (60) upon written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of the application, the member desires to be retired.

(3)(A) A contributory member who has at least five (5) years but less than twenty (20) years of actual service who leaves the employ of a public employer prior to his or her attainment of age sixty-five (65) for any reason except his or her retirement or death and who does not withdraw his or her accumulated contributions from the members' deposit account shall be entitled to an annuity provided for in § 24-4-606.

(B) A noncontributory member who has at least five (5) years but less than twenty-eight (28) years of actual service who leaves the employ of a public employer prior to the attainment of age sixty-five (65) for any reason except retirement or death shall be entitled to an annuity provided for in § 24-4-606.

(C) The member's annuity shall begin the first day of the calendar month next following the month of attainment of age sixty-five (65) upon written application filed with the board setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, the member desired to be retired.

(4) The monthly amount of vested termination annuity shall be computed in the same manner as a normal annuity amount provided for in § 24-4-601, but it shall be based upon the member's credited service and final average compensation at the time of termination of employment covered by the Arkansas Public Employees' Retirement System.

(5) The member shall have the right to elect an option provided for in § 24-4-606.

History. Acts 1957, No. 177, § 10; A.S.A. 1947, § 12-2510; Acts 1999, No. 1959, No. 42, § 10; 1965, No. 153, § 8; 627, § 2; 2001, No. 151, § 24; 2001, No. 1973, No. 586, § 3; 1975, No. 907, § 14; 1297, § 1.
1979, No. 715, § 3; 1985, No. 938, §§ 3, 4;

24-4-511. Eligibility for benefits — Disability retirement.

(a)(1)(A) Except for members of the General Assembly who need at least ten (10) years of actual service, any active member with five (5) or more years of actual service, including actual service for at least eighteen (18) of the twenty-four (24) calendar months immediately preceding his or her disability, who becomes totally and permanently physically or mentally incapacitated for any suitable job or position as an employee as a result of a personal injury or disease may be retired by the Board of Trustees of the Arkansas Public Employees' Retirement System upon written application filed with the board by or on behalf of the member.

(B) This may occur only if after a medical examination of the member made by or under the direction of a physician or physicians designated by the board, the physician reports to the board in writing that the member is physically or mentally totally incapacitated for any suitable job or position, that the incapacity will probably be permanent, and that the member should be retired.

(2) Upon filing the proper application and meeting the requirements stated in this section, the disability annuity shall be effective the first day of the calendar month next following the later of either the member's termination of active membership or the onset date of the qualifying disability.

(b)(1) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-4-601, and his or her disability retirement and annuity shall be subject to the provisions of subsections (c) and (d) of this section.

(2) When a person retired on disability under this chapter reaches the age required for full age and service retirement benefits, the person's retirement status shall be changed from that of disability to superannuation.

(3)(A)(i) A person who receives or who is receiving a benefit solely because of disability but who meets or has met the elected credited service and total credited service requirement but not the age requirement for a benefit provided for a member with elected service, upon attaining the required age, may have his or her disability retirement status changed to superannuation.

(ii) The person's benefit shall be the age and service amount provided by his or her credited service in effect before termination of employment because of disability.

(B) The change must be made by formal request of the retirant to the board on a form to be furnished by the Arkansas Public Employees' Retirement System and filed with the system setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, he or she desires the change to be effective.

(C) In no event shall the change be effective earlier than the first of the month following attainment of the age required for the age and service benefit provided by his or her amount of credited service, and, after the effective date, he or she shall be eligible to return to employment subject to the provisions of § 24-4-520.

(c)(1) At least once each year during the first five (5) years following a member's retirement on account of disability and at least once in each three-year period thereafter, the board may require any disability retirant who has not attained the normal retirement age for full age and service retirement benefits to undergo a medical examination to be made by or under the direction of a physician or physicians designated by the board.

(2) If a retirant refuses to submit to a medical examination in any period, his or her disability annuity may be suspended by the board until his or her withdrawal of the refusal.

(3) If the refusal continues for one (1) year, all of the retirant's rights in and to a disability annuity may be revoked by the board.

(4) If, upon the medical examination of the retirant, the physician reports to the board that the retirant is physically and mentally able and capable for a suitable job or position as an employee, his or her disability retirement shall terminate.

(5) If a disability retirant secures employment with an employer not considered a public employer, as defined in § 24-4-101, for the purpose of determining whether he or she is capable of returning to employment, then the disability retirant shall be allowed to earn compensation from the employment for a period of time not to exceed nine (9) months, during which period of time the retirant shall receive no monthly benefits from the system.

(6) If the retirant becomes unable to continue his or her employment before the nine-month period expires, then the retirant's disability retirement benefits from the system shall be reinstated and shall be effective the first day of the month after terminating his or her employment.

(7) Only one (1) trial work period is allowed any disability retirant, but the nine (9) months need not be consecutive.

(8) The trial work period does not prevent the consideration of any medical evidence which may demonstrate recovery before the ninth month of trial work.

(d)(1) If at the end of the nine-month trial work period the retirant wishes to continue his or her employment outside the system, then the retirant's disability retirement status shall terminate. For the purpose of determining his or her eligibility for any other benefit, the retirant shall be considered to have terminated active membership as of the time of disability retirement but for a reason other than disability or death.

(2) If the former disability retirant again becomes an employee of a public employer, as defined in § 24-4-101, the retirant shall immediately again become a member of the system, his or her credited service at the time of his or her disability retirement shall be restored to the retirant's credit, and the amount of his or her accumulated contributions at the time of his or her disability retirement shall be restored to his or her credit in the members' deposit account.

(3) In no event shall the retirant be given service credit for the period he or she was in receipt of the disability annuity.

(4) Should the former disability retirant again become totally and permanently disabled within twenty-four (24) months immediately following his or her return to membership or should the retirant qualify for benefits by reason of age and service, the eighteen (18) months' credited service requirement specified in this section shall be waived.

(e)(1) As used in this section, "suitable job or position" means a job or position, the requirements of which can be physically or mentally performed, as determined by a physician, and for which the remuneration would be substantially gainful.

(2) In case of doubt as to what would be substantially gainful, the board shall have the final power to decide the question.

(3) Any former member who is or was approved for disability by the Social Security Administration but whose onset date does not meet the provision of subdivision (a)(1)(A) of this section that requires credited service for eighteen (18) of the twenty-four (24) months immediately preceding the disability, may be retired by the board upon written application to the board subject to the following:

(A) The onset date determined by the Social Security Administration is within twenty-four (24) months of the date of termination from covered employment;

(B) The former member furnishes a written statement to the board from a physician approved by the board that the former member was suffering at the time of termination from an illness or injury that subsequently led to the disability determination; and

(C) Retirement payments authorized under this section shall be effective on the first day of the next month following approval by the board of the written application and shall not be retroactive.

History. Acts 1957, No. 177, § 10; A.S.A. 1947, § 12-2510; Acts 1999, No. 1959, No. 42, § 10; 1973, No. 586, § 4; 325, § 8; 1999, No. 868, § 3; 2001, No. 1975, No. 907, § 8; 1977, No. 663, § 3; 151, § 25.
1981, No. 859, § 4; 1985, No. 448, § 1;

24-4-513. [Repealed.]

Publisher's Notes. This section, concerning the minimum period of service for the payment of benefits, was repealed by Acts 2001, No. 151, § 26. The section was derived from Acts 1957, No. 177, § 14; A.S.A. 1947, § 12-2514.

24-4-514. Credit for educational leave.

(a) As used in this section:

(1) "Educational leave" means a leave of absence from employment in a position covered by the Arkansas Public Employees' Retirement System to pursue a degree from an institution of higher education; and

(2) "System" means the Arkansas Public Employees' Retirement System.

(b) On or after July 1, 1987, any person who is a member of the system and who is not receiving benefits under the system on July 1, 1987, shall be entitled to purchase credited service in the system for a period not to exceed twelve (12) months for actual time spent on educational leave, provided that the person:

(1) Has ten (10) or more years of actual service with the system;

(2) Was paid a stipend during the period of educational leave;

(3) Had creditable service before and for at least two (2) years after the period of educational leave; and

(4) Pays or causes to be paid the sum of all employee contributions at the rate and on the compensation that would have been paid had he or she been a member of the system during that period of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions computed from the date of the educational leave to the date the payment is received by the system.

History. Acts 1987, No. 33, §§ 1, 2; 1997, No. 299, § 16; 2001, No. 151, § 27.

24-4-517. State service under a federal grant.

(a) As used in this section, "state service under a federal grant" means service rendered to any state agency while detailed or assigned to the agency under the terms of a federal grant agreement between an agency of the federal government and a state agency to perform services for the state agency and to be under the supervision of state administrators while being paid from federal grant funds awarded to the state agency and withheld from the federal grant moneys.

(b) From and after January 1, 1995, any person who is or was a member of the Arkansas Public Employees' Retirement System shall be entitled to purchase credited service in the system for a period not to exceed three (3) years for state service under a federal grant, but only if the person:

(1) Has at least ten (10) years of actual service with the system;

(2) Is not receiving or was not eligible to receive any retirement benefits paid by another retirement system for the period of time for which he or she is claiming state service under a federal grant, except for social security benefits, if the person had left on deposit the contributions to the other system;

(3)(A) Pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member of the system during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date payment is received by the system.

(B) The member may purchase all of the service or any portion thereof in multiples of one (1) year.

(C) The payment of funds shall be made in one (1) lump sum; and

(4) Has otherwise complied with all other rules and regulations as the Board of Trustees of the Arkansas Public Employees' Retirement System may from time to time adopt under this section.

History. Acts 1995, No. 1264, § 1;
1997, No. 239, § 1; 1997, No. 299, § 18;
2001, No. 151, § 28.

24-4-518. Credit for service as sheriff.

A sheriff or former sheriff who became a member of the Arkansas Public Employees' Retirement System pursuant to Acts 1995, No. 846, § 1, may purchase his or her time as an elected sheriff prior to July 28, 1995. At his or her option, the sheriff or former sheriff may receive credit for the service, subject to the following conditions:

(1) The person is a participating employee covered under the system at the time of the purchase or was a sheriff who became a member pursuant to Acts 1995, No. 846, § 1;

(2) The person furnishes proof in a form required by the system of the service and compensation received; and

(3) The person pays or causes to be paid:

(A) All employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time;

(B) All employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation

and the compensation that would have been paid had he or she been a member during that time; and

(C) Regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the system. The person may purchase all of the service or any portion thereof in multiples of one (1) year; and

(4) The payment of funds shall be made in one (1) lump sum.

History. Acts 1999, No. 870, § 1; 2001, No. 151, § 29.

24-4-520. Termination required for retirement.

(a) Except as provided in subsection (c) of this section, a member of the Arkansas Public Employees' Retirement System shall terminate covered employment to be eligible for retirement.

(b)(1) A member shall not be terminated from employment for retirement purposes if the person:

(A) Returns to employment in a position covered under the system within one hundred eighty (180) days of the person's effective date of retirement; or

(B) Is a member with service credit under § 24-4-521 at a rate of two (2) or more years of credited service for each year of actual service and the person returns to employment in a position covered under the system within one (1) year of the person's effective date of retirement.

(2) A member participating in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan on January 1, 2009, shall have the one-hundred-eighty-day separation requirement waived and may return to employment otherwise covered by the system no sooner than thirty (30) calendar days from the commencement of his or her retirement.

(3) A member who has retired and commenced receiving benefits in any month between January 2009 and June 2009, inclusive, shall have the one-hundred-eighty-day separation requirement waived and may return to employment otherwise covered by the system no sooner than thirty (30) calendar days from the commencement of his or her retirement.

(c)(1) An elected public official may retire and begin receiving retirement benefits if the elected public official is a member:

(A) Whose current service in public office in one (1) form of government is covered by § 24-4-521(b)(5); and

(B) Who is elected to public office in a different form of government and will begin serving in that public office immediately after the expiration of his or her term of public office described in subdivision (c)(1)(A) of this section.

(2) The member shall notify the retirement system of his or her impending service in another form of government at least thirty (30) days prior to the first day of the month in which that service will begin. A completed retirement application shall be submitted at that time.

(3) As used in this subsection, "form of government" means city government, county government, or state government.

(d) Persons failing to meet termination requirements shall forfeit their benefits until requirements are met.

(e)(1) As used in this section, "terminate" means:

(A) The member's employment has ended;

(B) A complete severance of the employer-employee relationship has occurred; and

(C) The member has ceased performing any services for the employer, except for non-compensated functions related to the transfer of the duties or the transfer of the position itself.

(2) If the member is an elected public official, "terminate" as used in this section means:

(A) The member has resigned, been removed, or otherwise no longer holds the elected position;

(B) A complete severance from the elected position has occurred; and

(C) The member has ceased performing any services in his or her elected position, except for non-compensated functions related to the transfer of the duties or the transfer of the position itself.

(3) As used in this section, "terminate" does not mean:

(A) Taking a leave of absence;

(B) Performing job duties or services without remuneration; or

(C) Receiving or accruing additional employment-related compensation, reimbursements, benefits, or other emoluments.

History. Acts 1999, No. 1460, § 1; 2001, No. 154, § 1; 2005, No. 652, § 1; 2009, No. 657, § 1; 2011, No. 40, § 1; 2011, No. 774, § 1.

Publisher's Notes. Acts 2005, No. 652, § 2, provided: "Section 1 of this act shall apply retroactively to an elected public official who meets the requirements of § 24-4-520(c) as of January 1, 2005."

Amendments. The 2009 amendment

redesignated (b), substituted "one hundred eighty (180)" for "thirty (30)" in (b)(1)(A), substituted "one hundred eighty (180)" for "ninety (90)" in (b)(1)(B), and inserted (b)(2) and (b)(3).

The 2011 amendment by No. 40 added (e).

The 2011 amendment by No. 774 substituted "one (1) year" for "one hundred eighty (180) days" in (b)(1)(B).

24-4-521. Credited service generally.

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System shall establish the amounts of service to be credited its members subject to the provisions of subsection (b) of this section.

(b)(1)(A) Noncontributory employment service by a person who was employed prior to July 1, 1997, as a public safety member shall be credited at one and one-half (1½) times the regular rate for crediting service, and employment service by persons employed on and after July 1, 1997, shall be credited at the regular rate for crediting service, except that at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-4-601 and

24-4-510 — 24-4-512, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-4-608.

(B)(i) Noncontributory employment service by a person who qualifies as a public safety member under § 24-4-1004 shall be credited at one and one-half (1½) times the regular rate for crediting service.

(ii) However, at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-4-601 and 24-4-510 — 24-4-512, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-4-608.

(2)(A)(i) Noncontributory employment as Governor by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System prior to July 1, 1999, shall be credited as service at three (3) times the regular rate for credited service.

(ii) Noncontributory employment as Governor by a person first elected to a public office covered by the system on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(B) However, at least four (4) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-4-601 and 24-4-510 — 24-4-512, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-4-608.

(3)(A)(i) Noncontributory employment as an elected state constitutional officer by a person first elected to a public office covered by the system prior to July 1, 1999, shall be credited at two and one-half (2½) times the regular rate for crediting service.

(ii) Noncontributory employment as an elected state constitutional officer by a person first elected to a public office covered by the system on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(B) However, at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-4-601 and 24-4-510 — 24-4-512, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-4-608.

(4)(A) Noncontributory employment as a member of the General Assembly shall be credited at the regular rate for crediting service, except that at least ten (10) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-4-510, 24-4-511, and 24-4-609, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-4-608.

(B) A member of the General Assembly who at any time has served at least six (6) months during a two-year term in the General Assembly shall be credited with no more than one (1) year's actual service.

(5)(A) Noncontributory employment as an elected public official covered by the system and:

(i) Who has served in an elected position covered by the system before July 1, 2011, shall be credited as service at two (2) times the regular rate for crediting service; or

(ii) Who has never served in an elected position covered by the system before July 1, 2011, shall be credited as service at two (2) times the regular rate for crediting service, and the employee shall contribute an additional two and one-half percent (2.5%) of the gross payroll, and the employer shall contribute an additional two and one-half percent (2.5%) of the gross payroll for the additional service that exceeds the regular rate of service.

(B) However, at least five (5) years of actual service shall be required to meet:

(i) The retirement eligibility requirements of §§ 24-4-601 and 24-4-510 — 24-4-512; and

(ii) The eligibility requirements of § 24-4-608.

(C) This subdivision (b)(5) does not apply to:

(i) The Governor;

(ii) An elected state constitutional officer;

(iii) A member of the General Assembly; or

(iv) An elected public official under the State Division of the Arkansas Public Employees' Retirement System.

(6)(A) Noncontributory employment as an elected public official under the state division of the system other than Governor or an elected state constitutional officer or a member of the General Assembly by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System prior to July 1, 1999, shall be credited as service at two (2) times the regular rate for crediting service, except that at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-4-601 and 24-4-510 — 24-4-512, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-4-608.

(B) Noncontributory employment as an elected public official under the state division of the system other than Governor or an elected state constitutional officer or a member of the General Assembly by a person first elected to a public office covered by the system on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(c) As used in this section, "elected state constitutional officer" means the Lieutenant Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, and Commissioner of State Lands.

History. Acts 2001, No. 151, § 30; 2011, No. 563, § 1; 2011, No. 978, § 3.

Amendments. The 2011 amendment by No. 563 subdivided former (b)(5) as (b)(5)(A) and (B) and added (b)(5)(C); substituted "covered by the system and" for "other than Governor or an elected state

constitutional officer or a member of the General Assembly or an elected public official under the state division of the system" in the introductory paragraph of (b)(5)(A); inserted "Who has served in an elected position covered by the system before July 1, 2011" in (b)(5)(A)(i); added

(b)(5)(A)(ii); and deleted "at least five (5) The 2011 amendment by No. 978 in-years of actual service shall be required to meet" at the beginning of (b)(5)(B)(ii). serted the (b)(1)(A) designation and (b)(1)(B).

24-4-522. Applicability of benefit provisions.

(a) The benefit provisions of this chapter shall be applicable to specified members of the Arkansas Public Employees' Retirement System.

(b)(1) The noncontributory benefit provisions of this chapter shall be applicable to each person who has never been a member of the Arkansas Public Employees' Retirement System before January 1, 1978, and who is employed on or after January 1, 1978, in a position covered by the system and who thereby becomes a member.

(2) In addition, each other member who was actively employed in a position covered by the Arkansas Public Employees' Retirement System on June 30, 1991, may elect to become covered by the noncontributory benefit provisions of this chapter by application written to, and received by, the governing body of the plan before January 1, 1985.

(3)(A)(i) Each other member who was not actively employed in a position covered by the Arkansas Public Employees' Retirement System on January 1, 1978, shall become covered by the noncontributory benefit provisions of this chapter at the time the member first becomes so employed after January 1, 1978, unless he or she elects to become covered by the provisions of the Arkansas Public Employees' Retirement System which require member contributions, by election written to, and received by, the governing body of the system before the later of January 1, 1986, and six (6) months after the member first becomes so employed after January 1, 1978.

(ii) However, if the member so elects benefits requiring member contributions, he or she shall pay the member contributions from the date of the employment, together with regular interest, from the dates the contributions would normally have been received by the Arkansas Public Employees' Retirement System to the dates of actual payment.

(B)(i) The benefits of each member's becoming covered by the noncontributory benefit provisions of this chapter shall be computed by applying the benefit provisions prescribed by this chapter for all credited service of the person rendered before and after January 1, 1978.

(ii) However, benefit amounts based upon employment before January 1, 1978, shall not be less than benefit amounts computed in accordance with the Arkansas Public Employees' Retirement System benefit provisions at the time of retirement which require member contributions.

(c)(1) The noncontributory benefit provisions of this chapter, including death and disability benefits, shall apply to all credited service rendered before or after the date of election of employees of the Department of Human Services in either the Arkansas Teacher Retirement System or the Arkansas Public Employees' Retirement System.

(2)(A) Employees of the Department of Human Services and employees of the Arkansas Rehabilitation Services of the Department of Career Education shall be entitled to the benefit amount computed by applying the benefit provisions prescribed by this chapter for all credited service rendered before and after January 1, 1978, except that benefit amounts based upon employment before January 1, 1978, shall not be less than benefit amounts computed in accordance with benefit provisions in effect December 31, 1977.

(B) On and after January 1, 1993, employees of the Arkansas Rehabilitation Services of the Department of Career Education who elected to be covered by the provisions of this subsection and who are still active employees on January 1, 1993, shall be entitled to the benefit amount computed by applying the benefit provisions prescribed by this chapter for all credited service rendered before and after January 1, 1978, except that benefit amounts based upon employment before January 1, 1978, shall be computed in accordance with current benefit provisions in effect for the Arkansas Teacher Retirement System at the time of their retirement.

(3) In computing the benefit under the benefit provisions of this chapter, the final average compensation shall be computed upon all service before and after the election of the Arkansas Rehabilitation Services employee as provided in §§ 24-4-101(33) and 24-4-746.

(d) Each public retirement system in which the employee has served shall be responsible financially for the benefit amounts payable to the retirant, the retirant's survivors, and the retirant's beneficiaries based upon the ratio of the number of years the employee was a member of that public retirement system to the total number of years the employee was a member of any of the two (2) statewide retirement systems, i.e., the Arkansas Public Employees' Retirement System or the Arkansas Teacher Retirement System.

(e)(1)(A) The benefit provisions of this chapter shall be administered by the Arkansas Public Employees' Retirement System for the benefit of all employees making the option.

(B) The Arkansas Public Employees' Retirement System shall certify monthly the amount of benefits paid hereunder, and the Arkansas Teacher Retirement System shall immediately transfer that amount from its benefit account to the proper account designated by the Arkansas Public Employees' Retirement System.

(2) If an employee of the Department of Human Services who becomes or has become a member of the Arkansas Public Employees' Retirement System under the provisions of this section leaves employment with the Department of Human Services and becomes employed in another position covered by the Arkansas Teacher Retirement System, the person's credited service, both before and after his or her service under this chapter, shall be subject to the benefit provisions of §§ 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716.

(3) The member shall be eligible to establish reciprocity under the provisions of §§ 24-2-401 — 24-2-407.

(4) Members of the Arkansas Teacher Retirement System who have not elected to pay contributions to that system on full salary shall not be eligible to elect to become covered by the benefit provisions of this chapter unless they first make written application with the Arkansas Teacher Retirement System for full salary coverage for all salaries received from July 1, 1969, until the date of making the election to come under the provisions of this chapter and paying to the system the amount of the additional contributions, plus regular interest, for full salary credited service.

(f) Any member of the Arkansas Public Employees' Retirement System employed prior to January 1, 1978, who does not elect in writing to become covered by the noncontributory benefit provisions of this chapter shall not be covered by the noncontributory benefit provisions of this chapter but shall remain in the plan he or she was in January 1, 1978, and shall continue to make regular contributions as provided in the Arkansas Public Employees' Retirement System.

(g) Any member of the Arkansas Public Employees' Retirement System who elects in writing to become covered by the noncontributory benefit provisions of this chapter shall be entitled to a refund of any accumulated contributions paid on or after January 1, 1978, and prior to the date of election.

History. Acts 2001, No. 151, § 30.

24-4-523. Conversion from contributory to noncontributory plan — Extension of time.

Any person who, under § 24-3-101 et seq. [repealed], or any other act, was authorized to convert from the contributory plan of the Arkansas Public Employees' Retirement System to the noncontributory plan of the Arkansas Public Employees' Retirement System prior to January 1, 1985, may convert from the contributory plan to the noncontributory plan at any time.

History. Acts 2001, No. 151, § 30.

SUBCHAPTER 6 — BENEFITS

SECTION.

- 24-4-601. Straight life annuity generally.
- 24-4-606. Annuity options.
- 24-4-608. Payment of benefits upon death of member before retirement — Exception.

SECTION.

- 24-4-620. Partial annuity withdrawal provision.
- 24-4-621. Increase in benefits.
- 24-4-622. Monthly benefit increase.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the

State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General

Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 355, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2001."

Acts 2001, No. 356, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2001."

Acts 2001, No. 357, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System, this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace,

health, and safety shall become effective on July 1, 2001."

Acts 2001, No. 438, § 5: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2001."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2005, No. 383, § [2] and No. 1450, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 1568, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the distribution of benefits to retirees of the Arkansas Public Employees' Retirement System and that the ideal time to make revisions to the system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the

preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

Acts 2009, No. 1200, § 3: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this country is in a recession, that Arkansas retirants have been hurt economically by the recession, that this act will increase benefits for those retirants that served the state the longest period of time, that the fiscal year of the Arkansas Public Employees’ Retirement System begins on July 1 of each year, and that these changes are needed by July 1, 2009, in order to have a smooth transition between fiscal years. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 38, § 11: Feb. 16, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the public retirement systems provide economic security for eligible citizens of Arkansas; that the statutes need amending to update and clarify existing law; and that these changes need to be made immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

24-4-601. Straight life annuity generally.

(a)(1) Beginning July 1, 2001, any member who retires as provided in § 24-4-508 or §§ 24-4-510 — 24-4-512 shall receive a straight life annuity for each year of contributory service credit equal to two and seven hundredths percent (2.07%) of the member’s final average compensation multiplied by the number of years and fraction of a year of credited service rendered on or after July 1, 2001, with the Arkansas Public Employees’ Retirement System.

(2) Beginning July 1, 2001, any member who retires as provided in § 24-4-508 or §§ 24-4-510 — 24-4-512 shall receive a straight life annuity for each year of contributory service credit equal to two and eleven hundredths percent (2.11%) of the member’s average compensation multiplied by the number of years and fraction of a year of credited service rendered before July 1, 2001, with the system.

(b)(1) For each year of noncontributory credited service in the system rendered prior to July 1, 2007, resulting from employment in a position covered at any time by social security or another federal retirement plan supported wholly or in part by employer contributions, a member shall receive one and seventy-five hundredths percent (1.75%) of the member’s final average compensation plus, for each year of noncontributory credited service in the system rendered prior to July 1, 2007, resulting from employment in a position never so covered, a member shall receive two and eleven hundredths percent (2.11%) of the member’s final average compensation.

(2) For each year of credited service in the system rendered after June 30, 2007, resulting from employment in a position covered at any time by social security or another federal retirement plan supported

wholly or in part by employer contributions, a member shall receive one and seventy-two hundredths percent (1.72%) of the member's final average compensation plus, for each year of credited service in the system rendered after June 30, 2007, resulting from employment in a position never so covered, a member shall receive two and seven hundredths percent (2.07%) of the member's final average compensation. In no event shall service as a district judge in the state division receive less than three percent (3%) of the member's final average compensation.

(3) For each year of actual service in the system in excess of twenty-eight (28) years that is rendered on or after July 1, 2009, a member shall receive a straight life annuity equal to an additional five-tenths percent (0.5%) of the member's final average compensation.

(c)(1) A member of the General Assembly first elected before July 1, 1999, shall receive a monthly annuity equal to thirty-five dollars (\$35.00) multiplied by the number of years of actual service as a member of the General Assembly.

(2) A member of the General Assembly first elected before July 1, 1999, who served as Speaker of the House of Representatives or President Pro Tempore of the Senate shall receive a monthly annuity equal to forty dollars (\$40.00) multiplied by the total number of years of actual service as a member of the General Assembly.

(d)(1) In addition, if a member has credited service resulting from employment in a position covered at any time by social security or another federal retirement plan supported wholly or in part by employer contributions, and if that member is retiring as provided in subsection (b) of this section or § 24-4-510, and if that member's age at retirement is younger than social security's minimum age for an immediate retirement benefit and age sixty-two (62), then that member of the system shall receive a temporary annuity equal to thirty-three hundredths percent (0.33%) of his or her final average compensation for each year of the noncontributory credited service.

(2) The temporary annuity shall terminate at the end of the calendar month in which the earliest of the following events occurs:

(A) The member's death;

(B) The member's attainment of the social security minimum age;

or

(C) The member's attainment of age sixty-two (62).

(3) It is considered sound public policy that retirement pay not exceed working pay except for increases after retirement caused by inflation. Accordingly, at the time of retirement the total of the system's noncontributory annuities resulting from employment in a position also covered by social security shall not exceed the member's final average compensation.

(4) If no temporary annuity is payable as provided in this subsection or after the temporary annuity has terminated and if the member has at retirement any credited service for any period of time prior to July 1, 1991, then the future payments of the annuity for life shall not be less

than they would have been under the provisions that were in effect on July 1, 1990, for this subsection, plus a corresponding increase for any benefit enhancements that have been enacted since July 1, 1991.

History. Acts 1957, No. 177, § 11; 1959, No. 42, § 11; 1965, No. 153, §§ 11, 12; 1967, No. 108, § 3; 1969, No. 632, § 3; 1975, No. 907, § 9; 1979, No. 715, § 6; 1981, No. 859, § 6; A.S.A. 1947, § 12-2511; Acts 1991, No. 223, § 1; 1995, No. 629, § 1; 1997, No. 318, § 1; 1999, No. 496, § 2; 2001, No. 151, § 31; 2001, No. 355, § 1; 2003, No. 1473, § 55; 2005, No. 1450, § 1; 2007, No. 220, § 1; 2009, No. 1200 § 1; 2011, No. 38, § 8.

Amendments. The 2007 amendment substituted "July 1, 2007" for "July 1, 2005" twice in (b)(1); and substituted "June 30, 2007" for "June 30, 3005" twice in (b)(2).

The 2009 amendment inserted (b)(3).

The 2011 amendment added the last sentence in (b)(2).

24-4-606. Annuity options.

(a) Before the date the first payment of a member's annuity becomes due, but not thereafter, a member may elect to receive his or her annuity as a straight life annuity or may elect to have his or her annuity reduced and nominate a beneficiary in accordance with the provisions of one (1) of the following options:

(1) OPTION A60 — 60 MONTHS CERTAIN AND LIFE ANNUITY.

(A) Under Option A60, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before sixty (60) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the sixty (60) months to such persons and in such shares as the retirant shall have designated in writing and filed with the plan. If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety-eight percent (98%) of the straight life annuity;

(2) OPTION A120 — 120 MONTHS CERTAIN AND LIFE ANNUITY.

(A) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons and in such shares as the retirant shall have designated in writing and filed with the plan. If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety-four percent (94%) of the straight life annuity;

(3) OPTION B50 — 50 PERCENT SURVIVOR BENEFICIARY ANNUITY.

(A) Under Option B50, the retirant shall be paid a reduced annuity for life with the provision that upon the retirant's death one-half (½)

of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in writing and filed with the plan before his or her annuity's starting date. However, the person must be either his or her spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ($\frac{1}{2}$) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-eight percent (88%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by one-half percent (0.5%), for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by one-half percent (0.5%), up to a maximum of ninety-five percent (95%), for each year that the beneficiary's age is more than the retirant's age.

(C) However, if the named beneficiary under Option B50 predeceases the retirant, the original unreduced benefit shall be paid to the retirant prospectively;

(4) OPTION B75 — 75 PERCENT SURVIVOR BENEFICIARY ANNUITY.

(A) Under Option B75, the retirant shall be paid a reduced annuity for life with the provision that, upon his or her death, three-fourths ($\frac{3}{4}$) of the reduced annuity shall be continued throughout the future lifetime of, and paid to, such person as the retirant shall have designated in writing and filed with the plan before his or her annuity's starting date. However, the person must be either the retirant's spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ($\frac{1}{2}$) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-three percent (83%) if the retirant's age and his or her beneficiary's age are the same on the first due date, which shall be decreased by seven-tenths of one percent (0.7%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by seven-tenths of one percent (0.7%) up to a maximum of ninety percent (90%) for each year that the beneficiary's age is more than the retirant's age.

(C) However, if the named beneficiary under Option B75 predeceases the retirant, the original unreduced benefit shall be paid to the retirant prospectively.

(b)(1) A death of a spouse or divorce or other marriage dissolution or the death of a person forty (40) years of age or older who is the designated beneficiary under Option B50 or Option B75 shall cancel, at the written election of the retirant, Option B50 or Option B75 at retirement, providing continuing lifetime benefits to the designated person, and shall return the retirant to his or her straight life, Option A60, or Option A120 annuity, to be effective the month following receipt

of his or her election by the Arkansas Public Employees' Retirement System.

(2)(A) A retirant who is receiving a straight life, Option A60, or Option A120 annuity and who marries after retirement or within the one (1) year immediately preceding retirement may elect to cancel his or her straight life, Option A60, or Option A120 annuity and may elect Option B50 or Option B75, providing continuing lifetime benefits to his or her spouse, but only if the election is on a form approved by the system and is received by the system not earlier than one (1) year after the date of the marriage and not later than eighteen (18) months after that date.

(B) The election shall be effective the first day of the month following the receipt of the notice.

(c) If a member fails to elect an option, his or her annuity shall be paid to him or her as a straight life annuity.

(d)(1) The surviving spouse of a system member who retired prior to July 1, 1967, shall receive a monthly survivor's annuity equal to seventy-five percent (75%) of the retirant's monthly benefit at the time of death, provided that the surviving spouse was married to the retirant on the date of retirement, the surviving spouse is unmarried, and the surviving spouse makes application to the system on or before June 30, 1995.

(2) The monthly survivor's annuity shall be effective the first day of the month following the month of application, and no annuity will be paid the surviving spouse for any period prior to the first of the month following the month of application.

(e) The surviving spouse of a member of the system who retired on or after February 1, 1991, and who elected a straight life annuity shall be entitled to receive a survivor's annuity equal to the amount that would have been received had the member elected Option B75, provided:

(1) The member dies within twelve (12) months of the effective date of retirement; and

(2) The surviving spouse makes application to the system within twelve (12) months of the date of the member's death.

History. Acts 1957, No. 177, § 11; 1967, No. 108, § 4; 1979, No. 715, § 2; A.S.A. 1947, § 12-2511; Acts 1993, No. 973, § 1; 1993, No. 1200, § 2; 2001, No. 151, § 32; 2001, No. 438, §§ 1, 2; 2005, No. 383, § 1.

A.C.R.C. Notes. Acts 2001, No. 438,

§ 3, provided: "Application of the provisions of this Act. The increases in reduced annuity option amounts provided in this act shall not apply to retirees or survivors whose effective date of benefits occurred before July 1, 2001."

24-4-608. Payment of benefits upon death of member before retirement — Exception.

(a) Effective July 1, 2001, if an active member or former member with five (5) or more years of actual service dies before retirement, the applicable benefits provided in this section shall be paid upon written

application to the Board of Trustees of the Arkansas Public Employees' Retirement System.

(b) For purposes of computing benefits provided by this section, the deceased member's or former member's compensation at the time of death shall be the member's compensation for the year immediately preceding the cessation of his or her pay.

(c)(1) A member's or former member's surviving spouse who was married to the member at least the one (1) year immediately preceding his or her death shall receive an annuity computed in the same manner in all respects as if the member or former member had:

(A) Retired the date of his or her death with entitlement to an annuity provided for in § 24-4-601;

(B) Elected the Option B75 survivor annuity provided for in § 24-4-606(a)(4); and

(C) Nominated his or her spouse as joint beneficiary.

(2)(A) If the member or former member had satisfied the age and service requirements provided for in § 24-4-101 or had acquired twenty (20) years of actual service, the spouse annuity shall commence immediately and be payable for life. If the member or former member had not satisfied the age and service requirement provided for in § 24-4-101 or had not acquired twenty (20) years of actual service, then the spouse annuity shall commence immediately and be payable until the earlier of his or her remarriage or death.

(B) A surviving spouse who is otherwise eligible but whose benefit has been deferred because the spouse did not meet the age requirements in effect before July 1, 1999, shall be eligible to commence a spouse annuity effective July 1, 1999. The spouse annuity shall not be retroactive.

(3) The spouse annuity shall not be less than ten percent (10%) of the deceased member's or former member's covered compensation at the time of death.

(4) In any event, as long as the surviving spouse has in his or her care any of the deceased member's or former member's dependent children receiving a benefit provided for in this section, there shall be payable to him or her a spouse annuity as indicated in this section which shall not be less than ten percent (10%) of the deceased member's or former member's compensation at the time of death.

(d)(1)(A) A member's or former member's dependent child or dependent children shall each receive an annuity of the greater of either ten percent (10%) of the member's or former member's covered compensation at the time of death or an equal share of one hundred fifty dollars (\$150) monthly.

(B) Where there are three (3) or more dependent children, each dependent child shall receive an annuity of an equal share of the greater of either twenty-five percent (25%) of the covered compensation or one hundred fifty dollars (\$150) monthly.

(2)(A) A child shall be a dependent child until the child's death, marriage, or attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university, but in no event beyond his or her attainment of age twenty-three (23).

(ii) In addition, the age eighteen (18) maximum shall be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction or by the board, for as long as the incompetency exists.

(3) Upon a child's ceasing to be a dependent child, his or her annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e) If at the time of the member's or former member's death there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of ten percent (10%) of the covered compensation or an equal share of one hundred fifty dollars (\$150) monthly, but only if the board finds that the parent was dependent for at least fifty percent (50%) of his or her financial support upon the member or former member.

(f)(1) If no annuity can become payable to a dependent child due to the death of the member or former member and a surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits and the spouse or dependent parents are also the designated beneficiaries of the member or former member, then, in that event, the surviving spouse or dependent parents may elect to receive a refund of the member's or former member's accumulated contributions as provided in § 24-4-602(d) in lieu of any benefits which could become payable under this act.

(2) The option to choose a refund of the member's or former member's contributions shall also be afforded to any spouse or dependent parent qualified under this section whose eligibility for the benefit occurred before the passage of this act and who could not exercise the option.

(3) Once the refund of the deceased member's or former member's accumulated contributions has been made to the surviving spouse or dependent parents under this section, the person shall have no future claim to monthly retirement benefits due to the death of the member or former member.

(g)(1) In the event that all the annuities provided for in this section payable on account of the death of a member or former member terminate before there has been paid an aggregate amount equal to his or her accumulated contributions standing to his or her credit in the members' deposit account at the time of his or her death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving at termination, the difference shall be paid to the member's or former member's estate.

(h) Annuities payable under the provisions of this section shall be effective the first day of the calendar month next following the date of

the member's or former member's death or the first day of the month following the month in which the survivor becomes eligible for benefits as provided by law.

(i) The provisions of this section shall not be applicable in determining survivor benefits under the General Assembly Division or the State Constitutional Officers' Division of the Arkansas Public Employees' Retirement System if a benefit is provided to the surviving spouse by other laws applicable to the system.

(j) The benefits provided in this section for former members shall not apply to former members who terminated covered employment prior to July 1, 1997, with less than ten (10) years of service or whose death occurred before July 1, 2001.

History. Acts 1975, No. 907, §§ 15, 18; 2511.12, 12-2511.15; Acts 1993, No. 432, 1977, No. 663, § 4; 1979, No. 715, § 4; §§ 9, 10; 1997, No. 299, § 20; 1999, No. 1981, No. 859, § 10; 1983, No. 637, § 1; 325, § 9; 1999, No. 1450, § 2; 2001, No. 1985, No. 938, § 11; A.S.A. 1947, §§ 12- 151, § 33; 2001, No. 356, § 1.

CASE NOTES

Applicability.

Given that the term "full-time student" is not defined in § 11-27-527(d)(2), but (1) §§ 24-6-216(d)(B)(i) and 24-6-216(e)(1)(B)(i) refer to a child's benefits terminating at age 18 but extending until age 23 as long as the child is continuously enrolled as a full-time student, (2) § 24-4-411(d)(3)(B)(i) and this section refer to a child being eligible as long as the child continues uninterruptedly from being a full-time student, and (3) § 6-82-202(7) defines full-time student for purposes of

the state scholarship program, had the legislature intended to restrict the definition of full-time student in § 11-27-527, it could have done so, and in light of the purpose under § 11-9-101(b) and the strict construction of workers' compensation laws under § 11-9-704(c)(3), the court will not read into the statute the restriction that the term "full-time student" is defined by each individual student's college handbook or catalog. *Death & Permanent Disability Trust Fund v. Anderson*, 83 Ark. App. 230, 125 S.W.3d 819 (2003).

24-4-620. Partial annuity withdrawal provision.

(a) Any member who does not terminate employment and retire on the date that member meets the age and service requirements of § 24-4-508 for an unreduced annuity and has not elected to participate in the Deferred Retirement Option Plan as provided in § 24-4-801 et seq. may elect at the time of retirement to participate in the Arkansas Public Employees' Retirement Partial Annuity Withdrawal Plan.

(b) A member electing to participate shall be eligible to receive, at the time of retirement, a lump sum distribution in an amount not exceeding one (1) month of benefit for each completed month of service beyond eligibility for an unreduced benefit. The lump sum shall not exceed an amount equal to sixty (60) months of benefits.

(c) A member electing to participate shall have his or her lifetime annuity reduced by an actuarially determined equivalent in accordance with rules and regulations adopted by the Board of Trustees of the Arkansas Public Employees' Retirement System.

History. Acts 2001, No. 357, § 1.

24-4-621. Increase in benefits.

(a) On July 1, 2001, the monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System who retired on or before June 1, 2001, shall be increased by one and seven-tenths percent (1.7%) of the benefit payable on June 1, 2001.

(b) The increase in benefits provided in subsection (a) of this section shall be added to the monthly benefit after the annual postretirement increase.

History. Acts 2001, No. 355, § 2.

24-4-622. Monthly benefit increase.

(a) On July 1, 2007, the monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System who retired on or before June 1, 2007, shall be increased by one percent (1%) of the benefit payable on June 1, 2007.

(b) The increase in benefits under subsection (a) of this section shall be added to the monthly benefit after the annual post-retirement increase.

History. Acts 2007, No. 1568, § 1.

SUBCHAPTER 7 — PROVISIONS APPLICABLE TO PARTICULAR EMPLOYEES

SECTION.

- 24-4-704. Contributory members of General Assembly — Eight years' service before 1967 plus credit for other service.
- 24-4-705. Contributory members of General Assembly — Voluntary retirement.
- 24-4-706. Contributory members of General Assembly — Retirement benefits generally.
- 24-4-707. Contributory members of General Assembly — Presiding officers.
- 24-4-710. Contributory credited service for General Assembly members and state constitutional officers dying in office — Surviving spouse benefits.
- 24-4-712. Contributory Governor.
- 24-4-714. Elected contributory state constitutional officers generally.

SECTION.

- 24-4-727. War Memorial Stadium Commission employees.
- 24-4-729. Conservation district employees.
- 24-4-732. Certain employees of state agencies — Early retirement incentives.
- 24-4-733. Certain county employees — Early retirement incentives.
- 24-4-741. Credit for service in a reciprocal system.
- 24-4-742. Credit for service with public facilities board, rural waterworks facilities board, regional solid waste management board, joint county and municipal sanitation authority, regional water distribution board, public rehabilitation services corporation, or other local unit of government.

SECTION.

- 24-4-746. Authority to promulgate rules.
 24-4-748. Dual full-time employment.
 24-4-749. Purchase of out-of-state governmental service.
 24-4-750. Arkansas District Judge Retirement System abolished
 — Powers, duties, and

SECTION.

- plan liabilities transferred to Arkansas Public Employees' Retirement System.
 24-4-751. Additional funding for retirement benefits.
 24-4-752. State Police Trust Fund.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2005, No. 1021, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 177, § 15: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this bill affects the structure of the Arkansas District Judge Retirement System and the Arkansas Public Employees' Retirement System and the ideal time to make revisions to the retirement systems is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 1242, § 6: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Department of Arkansas State Police has had ongoing financial difficulty for over twelve (12) years; that the State Police Retirement System has sustained investment losses of approximately one hundred million dollars (\$100,000,000) within the last two (2) years; that a larger investment pool is needed to help reduce risk and enhance returns; that the Arkansas Public Employees' Retirement System has the size and expertise to effectively reduce the volatility of returns, enhance relative returns, and best protect the State Police Retirement System; and that this act is immediately necessary to protect the members and beneficiaries of the State Police Retirement System. Therefore, an

emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

24-4-704. Contributory members of General Assembly — Eight years’ service before 1967 plus credit for other service.

(a) Any person who has eight (8) years of credited service in the Arkansas Public Employees’ Retirement System as a member of the General Assembly prior to 1967 and two (2) or more additional years of credited service in the system for service other than as a General Assembly member shall be eligible to voluntarily retire at sixty-five (65) years of age and to receive an annuity in the amount prescribed in the public employees’ retirement system law for retired General Assembly members and shall be eligible to exercise any option available to General Assembly members under the system.

(b) The surviving spouse of the person shall be entitled to survivor benefits prescribed for the surviving spouse of a General Assembly member.

History. Acts 1975, No. 313, § 2; A.S.A. 1947, § 12-2510.10; Acts 2001, No. 151, § 34.

24-4-705. Contributory members of General Assembly — Voluntary retirement.

(a)(1) An active member of the General Assembly or any person who has served as a member of the General Assembly subsequent to January 1, 1957, or who has qualified for coverage under the Arkansas Public Employees’ Retirement System with respect to service rendered as a member of the General Assembly as authorized by law, or who is a member of the system as a General Assembly member, or who has credited service in the system as a General Assembly member of the system for service rendered as a member of the General Assembly may voluntarily retire upon written application filed with the Board of Trustees of the Arkansas Public Employees’ Retirement System.

(2) The application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of the application, that a person desires to retire or to receive an annuity for which he or she is qualified under the system, if, at the time of retirement or election to receive benefits, the person satisfies at least one (1) of the following conditions:

(A) Attainment of age sixty (60) with ten (10) years of credited service for General Assembly service;

(B) Attainment of age fifty-five (55) with fourteen (14) years of credited service for General Assembly service;

(C) Attainment of age sixty (60) with six (6) years of credited service for General Assembly service and is seventy-five percent (75%) disabled because of federal military service;

(D) Attainment of age fifty-five (55) with six (6) or more years of credited service for General Assembly service, and six (6) years of credited service as an elected county official, and eight (8) years of credited service as a state or county employee. However, if the person has fourteen (14) or more years of credited service as an elected county official, eight (8) years of service as a state or county employee shall not be required for eligibility; or

(E) Attainment of age fifty (50) with eighteen (18) years of credited service for General Assembly service.

(b) Upon retirement, the person shall receive an annuity as provided for retired General Assembly members of the system.

History. Acts 1971, No. 103, § 4; 1971, 665, § 1; A.S.A. 1947, § 12-2510.6; Acts No. 305, § 1; 1973, No. 396, § 1; 1973, No. 2001, No. 151, § 35.

24-4-706. Contributory members of General Assembly — Retirement benefits generally.

(a) Upon a General Assembly member's retirement as provided by law, the member's straight life annuity shall be three thousand one hundred forty-four dollars (\$3,144) plus the applicable amount provided in § 24-4-610 payable in equal monthly installments.

(b) The provisions of this section shall apply to all former, present, or future members of the General Assembly, or their beneficiaries, who meet the age requirements as members of the General Assembly as provided by this act or any other act establishing eligibility for credited service as General Assembly members of the Arkansas Public Employees' Retirement System.

(c) The Treasurer of State is authorized and directed to make annual transfers to prevent the deterioration of the financial solvency of the system with respect to benefits provided General Assembly members and to retirants and beneficiaries of the General Assembly.

History. Acts 1971, No. 103, § 5; 1971, 715, § 5; 1981, No. 859, § 7; A.S.A. 1947, No. 305, § 2; 1973, No. 254, § 1; 1973, No. § 12-2511.1; Acts 2001, No. 151, § 36; 666, § 1; 1975, No. 907, § 9; 1979, No. 2003, No. 1473, § 56.

24-4-707. Contributory members of General Assembly — Presiding officers.

Any person who may have served as a presiding officer of either branch of the General Assembly for a period of not less than ten (10) years may be eligible, upon reaching age sixty-five (65), to receive an annuity as provided for in Acts 1959, No. 42, § 11A(c) [repealed], but only if the person became a member of the Arkansas Public Employees' Retirement System on July 1, 1957, has paid into the system all contributions required of the person by law, is not a member of, eligible

for membership in, or receiving benefits from some other state-supported retirement system other than social security, and is not at the time of retirement employed by a public employer in this state.

History. Acts 1961, No. 193, § 1; A.S.A. 1947, § 12-2510.1; Acts 2001, No. 151, § 37.

24-4-710. Contributory credited service for General Assembly members and state constitutional officers dying in office — Surviving spouse benefits.

(a) Any member of the General Assembly or a state constitutional officer who dies before completing a term of office to which the person was elected shall continue to accrue credited service in the Arkansas Public Employees' Retirement System during the remainder of the term for which the person was elected.

(b) The surviving spouse of a member or former member of the General Assembly or of a state constitutional officer or former state constitutional officer who, by virtue of the provisions of this section or any other law, has five (5) years or more of credited service in any capacity in the system, except for a member of the General Assembly who must have had ten (10) or more years of credited service if he or she only has service as a member of the General Assembly, shall be entitled upon reaching the required age to a surviving spouse benefit in the amount prescribed by law under the division of the system in which the deceased member was receiving benefits or would have been entitled under this section to receive benefits if the member had lived to retirement age.

(c) Nothing contained in this section is intended to, nor shall anything in this section be construed to, permit any member or former member of the General Assembly or any constitutional officer or former constitutional officer or any spouse of the member or officer to earn credited service in any retirement system after the expiration of the term of office to which the member was elected.

History. Acts 1981, No. 412, § 1; 1981, No. 491, § 1; A.S.A. 1947, § 12-2580; Acts 1999, No. 627, § 3; 2001, No. 151, § 38.

24-4-712. Contributory Governor.

(a)(1) Any person who serves two (2) full two-year terms as Governor or who substantially serves two (2) terms as Governor with the exception of completing a portion or all of the last month of the second term by reason of vacating the office solely for the purpose of taking another office to which the person is elected and who accumulates not less than three (3) years and eleven (11) months of credited service under the Arkansas Public Employees' Retirement System may retire upon reaching fifty-five (55) years of age under the provisions of the

system with an annuity equal to eighteen percent (18%) of the biennial salary prescribed for the Governor.

(2) Any person who serves as Governor for three (3) full two-year terms and who accumulates not less than six (6) years of credited service as a member of the system may retire upon reaching fifty-five (55) years of age, under the provisions of the system with an annuity equal to twenty-four percent (24%) of the biennial salary prescribed for the Governor.

(3) Any person who serves as Governor for four (4) or more two-year terms and accumulates not less than eight (8) years of credited service as a member of the system may retire, upon reaching fifty-five (55) years of age, under the provisions of the system with an annuity equal to thirty percent (30%) of the biennial salary prescribed for the Governor.

(b)(1) Any person who served as Governor prior to July 1, 1957, may, for the purpose of obtaining benefits under this section, purchase service credit in the system for the period of years which the person served as Governor by paying into the system an amount equal to five percent (5%) of his or her salary received as Governor during his or her service, plus an equal amount as the employer contribution to the system, plus interest at the rate of three percent (3%) per annum.

(2) Any person who served as Governor after July 1, 1957, but who has withdrawn his or her contributions to the system may, for purposes of obtaining benefits under the provisions of this section, repay to the system the amount so withdrawn with interest thereon at the rate of three percent (3%) from the date withdrawn to the date of repayment.

(3) The purchase of service credit or repayment of withdrawn contributions under this subsection must have been made on or before July 1, 1976.

(c) If the contributions made by the Governor members, together with the employer contributions made in behalf of the members, are insufficient to finance benefits payable to Governor members as prescribed in this section, then, in that event, the Board of Trustees of the Arkansas Public Employees' Retirement System shall annually certify to the Chief Fiscal Officer of the State the additional amounts required to pay the benefits of the members. The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the Constitutional Officers Fund and the State Central Services Fund to the system to be used for paying the benefits.

(d) The benefits received by any member under the provisions of this section shall be in lieu of any benefits to which the individual may be entitled under other provisions of the system.

History. Acts 1973, No. 447, §§ 1-3; 1975, No. 286, § 1; A.S.A. 1947, §§ 12-319 — 12-321; Acts 2001, No. 151, § 39.

24-4-714. Elected contributory state constitutional officers generally.

(a)(1)(A) Any elected state constitutional officer who as a member of the Arkansas Public Employees' Retirement System accumulates not less than ten (10) years of credited service as an elected state constitutional officer member of the system may voluntarily retire upon attaining age sixty (60) and receive an annuity provided in this section upon written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System.

(B) This application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, the member desires to be retired.

(2)(A) Any elected state constitutional officer who as a member of the system accumulates not less than fourteen (14) years of credited service as an elected state constitutional officer and is a member of the system may voluntarily retire upon attaining age fifty-five (55) and receive an annuity provided in this section upon his or her written application filed with the board.

(B) The application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, the member desires to be retired.

(b) The benefits of an elected state constitutional officer shall be not less than sixty-five percent (65%) of the biennial salary, but if the salaries of elected state constitutional officers are altered, benefits provided in this section shall be computed and determined on the basis of salaries in effect for such officers on January 1, 1976.

(c)(1) If the contribution of the elected state constitutional officer member and the employer contributions are insufficient to pay the benefits of the elected state constitutional officer members, then, in that event, the board shall annually certify to the Chief Fiscal Officer of the State the amount sufficient to pay the deficit, based upon an actuarial determination of the additional amounts required to pay benefits of elected state constitutional officer members.

(2) The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the Constitutional Officers Fund and the State Central Services Fund to the system.

(d) As used in this section, "elected state constitutional officer" means the Lieutenant Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, and Commissioner of State Lands.

(e) Nothing in this section shall prohibit the Lieutenant Governor from exercising any option provided by law to participate in benefits provided members of the General Assembly. In the event an elected state constitutional officer does not qualify for benefits provided elected state constitutional officers under the provisions of this section, the officer shall be entitled to benefits provided to other members of the system for which he or she is qualified, in terms of age and service, as provided by law.

History. Acts 1971, No. 103, § 6; 1971, A.S.A. 1947, § 12-2511.2; reen. Acts 1987, No. 305, § 3; 1973, No. 754, § 1; 1975 No. 1004, § 1; 2001, No. 151, § 40. (Extended Sess., 1976), No. 1206, § 1;

24-4-727. War Memorial Stadium Commission employees.

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to include within the membership of the Arkansas Public Employees' Retirement System, as created by this chapter, all employees of the War Memorial Stadium Commission who are not members of, or eligible for membership in, some other state-supported retirement system other than social security.

(b)(1) The effective date of membership of the employees in the Arkansas Public Employees' Retirement System shall be July 1, 1969. All the employees enrolled in the system shall be subject to the rights, privileges, and limitations prescribed in this chapter.

(2) Every such employee shall become a member of the Arkansas Public Employees' Retirement System as a condition of continuing or obtaining employment with the commission.

(c) Any employee included within the membership of the Arkansas Public Employees' Retirement System pursuant to this section shall be given credit for service rendered prior to July 1, 1957, as an employee of a public employer, as defined in § 24-4-101, or as an employee of the commission, if the employee was so employed on July 1, 1957, and on July 1, 1969.

(d)(1)(A) Any employee included within the membership of the Arkansas Public Employees' Retirement System by this section who was an employee of the commission on July 1, 1969, may apply for and receive current service credit for service rendered the commission from July 1, 1957, to July 1, 1969.

(B) The employee shall receive credit only if the employee pays or causes to be paid to the Arkansas Public Employees' Retirement System Fund all necessary contributions, at the rate of four percent (4%) for the employee and four percent (4%) for the employer from July 1, 1957, to July 1, 1967, and at the rate of four percent (4%) for the employee and five percent (5%) for the employer from July 1, 1967, to July 1, 1969, that would have been paid had the employee been a member of the system during that time.

(2) Interest at the rate of four percent (4%) per annum compounded annually from July 1, 1957, shall be paid on all contributions, which shall be paid in full on or before July 1, 1970.

(e) The commission shall pay into the fund such sums of money as are necessary to match the contributions of its employees in the same form and manner as other public employers and shall be subject to all the provisions of this chapter, to the same extent as other public employers.

(f)(1) The payments received by the Arkansas Public Employees' Retirement System under subsection (e) of this section shall be credited to the applicable employers' accumulation account.

(2) The employee payments shall be credited to the member's individual account in the members' deposit account.

History. Acts 1969, No. 125, §§ 1-6; A.S.A. 1947, §§ 12-2563 — 12-2568; Acts 2001, No. 151, § 41.

24-4-729. Conservation district employees.

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to include within the membership of the Arkansas Public Employees' Retirement System, as created by this chapter, all employees of conservation districts organized and operating under the provisions of this chapter.

(b)(1)(A) The effective date of membership of the employees in the system shall be July 1, 1973.

(B) The employees enrolled in the system shall be subject to the rights, privileges, and limitations prescribed in this chapter.

(2) Every such employee shall become a member of the system as a condition of continuing or obtaining employment with any conservation district.

(c) Any employee included within the membership of the system pursuant to this section shall be given credit for service rendered prior to July 1, 1957, as an employee of a public employer, as defined in § 24-4-101, or as an employee of a conservation district organized and operating under this chapter, if the employee was so employed on July 1, 1957, and on July 1, 1973.

(d)(1)(A) Any employee included within the membership of the system by this section who is an employee of a conservation district on July 1, 1973, may apply for and receive current service credit for service rendered as an employee of a public employer, as defined in § 24-4-101, or as an employee of a conservation district from July 1, 1957, to July 1, 1973.

(B) The employee shall receive credit only if the employee pays or causes to be paid to the Arkansas Public Employees' Retirement System Fund all necessary contributions, at the rate of four percent (4%) for the employee and four percent (4%) for the employer from July 1, 1957, to July 1, 1967, four percent (4%) for the employee and five percent (5%) for the employer from July 1, 1967, to July 1, 1969, and five percent (5%) for the employee and seven percent (7%) for the employer from July 1, 1969, to July 1, 1973, that would have been paid had the employee been a member of the system during that time.

(2) Interest at the rate of four percent (4%) per annum compounded annually from July 1, 1957, shall be paid on all contributions, which shall be paid in full on or before July 1, 1974.

(e) Each conservation district shall pay into the fund such sums of money as are necessary to match the contributions of its employees in the same form and manner as other public employers and shall be subject to all the provisions of this chapter, to the same extent as other public employers.

History. Acts 1973, No. 666, §§ 7-11;
A.S.A. 1947, §§ 12-2575 — 12-2575.4;
Acts 2001, No. 151, § 42.

24-4-732. Certain employees of state agencies — Early retirement incentives.

(a) In addition to the provisions of § 24-4-601 et seq.:

(1)(A) A state employee who is an active member of the Arkansas Public Employees' Retirement System on March 12, 1987, and who is vested for a full age and service annuity and who has credit in the system for three (3) consecutive actual years of service with the State of Arkansas immediately prior to his or her retirement date, may choose two (2) of the retirement incentives from subdivisions (a)(1)(B)-(E) of this section, provided the member retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement incentive program is not eligible to accept further employment in which the state is the employer.

(B)(i) In addition to the member's regular annuity, the system will pay the cost of the employee's health and basic life insurance which he or she is eligible to continue as a retirant with the State Employees Group Insurance Plan.

(ii) This payment is to be for the retirant's coverage only and is to be paid from the date of his or her retirement until the retirant's death.

(C) For the purpose of computing the state employee member's annuity, his or her highest annual salary will be substituted for his or her final average compensation.

(D) For the purpose of computing the state employee member's annuity, he or she will receive additional service credit equal to ten percent (10%) of his or her existing service credit.

(E)(i) A state employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System;

(2)(A) A state employee who is an active member of the Arkansas Public Employees' Retirement System on March 12, 1987, and who has credit in the system for three (3) consecutive actual years of service with the State of Arkansas immediately prior to his or her retirement date and who has credit for not less than ten (10) actual years of service and has attained age fifty-five (55) or has credit for not less than twenty-eight (28) actual years of service regardless of age may choose two (2) of the retirement incentives from subdivisions (a)(2)(B)-(F) of this section, provided he or she retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement

incentive program is not eligible to accept further employment in which the state is the employer.

(B)(i) The Arkansas Public Employees' Retirement System will pay the cost of the state employee's health and basic life insurance which the member is eligible to continue as a retirant with the State Employees Group Insurance Plan.

(ii) The payment is to be for the retirant's coverage only and is to be paid from the date of his or her retirement until the retirant has attained age sixty-five (65).

(C) For the purpose of computing the state employee member's annuity, his or her highest annual salary will be substituted for the member's final average compensation.

(D) If the state employee member is within two (2) years of his or her full annuity age and if the member is eligible for an early reduced annuity as provided by § 24-4-510 or is within two (2) years of having thirty (30) years' actual credited service, then the member's annuity will not be reduced because of early retirement.

(E) If the state employee member is within two (2) years of attaining the service requirement for a full annuity and has attained his or her full annuity age as provided by § 24-4-508 or is within two (2) years of having thirty (30) years' actual credited service, then the member's annuity will not be reduced because of early retirement.

(F)(i) A state employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System;

(3) Any employee of a state agency who is on April 8, 1987, an active member of the Arkansas Teacher Retirement System and who is not a member of the Arkansas Public Employees' Retirement System but who would otherwise qualify to retire before January 1, 1988, under the requirements of the Early Retirement Incentive Law of 1987, may elect to become a member, and his or her credited service in the Arkansas Teacher Retirement System will be transferred to the Arkansas Public Employees' Retirement System, subject to the following conditions:

(A) The employee shall make the election on a form to be furnished by the Arkansas Public Employees' Retirement System, and the transfer shall become effective on the date of retirement;

(B) The Arkansas Teacher Retirement System shall certify to the Arkansas Public Employees' Retirement System a record of the employee's service credit in the Arkansas Teacher Retirement System; and

(C)(i) The employee shall retire under the noncontributory provisions of § 24-3-216 [repealed], if, at the time of the transfer the member was a noncontributory member of the Arkansas Teacher Retirement System and shall be entitled to a refund of employee contributions made in the Arkansas Teacher Retirement System since January 1, 1978.

(ii) If, at the time of the transfer, the member was a contributory member of the Arkansas Teacher Retirement System, then the employee shall retire under the contributory provisions of subdivisions (a)(1) and (2) of this section;

(4)(A) The Arkansas Public Employees' Retirement System shall pay monthly benefits to any employee covered by this section who elects to transfer from the Arkansas Teacher Retirement System for purposes of retiring under this section.

(B) The Arkansas Public Employees' Retirement System shall certify monthly the amount of benefits paid hereunder, and the Arkansas Teacher Retirement System shall immediately transfer the amount from their benefit account to the proper account designated by the Arkansas Public Employees' Retirement System; and

(5)(A) For those state employees who retire pursuant to the provisions of this section, the amount paid by the State Division of the Arkansas Public Employees' Retirement System as the cost of the employee's health and basic life insurance shall not exceed the amount of the employer's contribution for the coverage on the date of the employee's retirement and may be reduced at the time the employee qualifies under medicare or medicaid programs.

(B) Any future increase in the cost of this coverage shall be borne by the employee and not by the system from which the employee retired.

(b)(1) No position being vacated as a result of an employee retiring pursuant to the provisions of this section shall be filled without the written approval of the Governor or the Chief Fiscal Officer of the State.

(2) For those state-elected constitutional officers and members of the General Assembly who, as members of the State Division of the Arkansas Public Employees' Retirement System, would qualify by meeting all the requirements of this section to retire under the early retirement incentives in this section by January 1, 1988, the time period in which they may elect to retire under this section shall be extended to the last day of their current terms for which they are serving.

(3) Nothing in this section shall be construed to allow an elected official to continue to accumulate salary earnings in the system upon which his or her final annuity shall be based. An elected official opting to retire under subdivision (b)(2) of this section shall have all contributions to the system terminated on December 31, 1987.

(c) Any member of the Arkansas Public Employees' Retirement System who qualifies by meeting all the requirements of this section to retire under the early retirement incentives in this section by January 1, 1988, and who suffered from a work-related injury for which benefits were paid under compensation laws after July 1, 1986, and before October 1, 1986, and whose final annuity would otherwise be reduced due to the reduced salary and lost credited service, shall be entitled to obtain credited service for the actual time period of reduced salary by paying to the system prior to December 31, 1987, the amount of money

both he or she and his or her employer would have contributed on his or her behalf plus interest at the rate of six percent (6%) per annum calculated from the date the contributions would have been made until the date he or she makes payment to the system.

History. Acts 1987, No. 187, §§ 1, 8, 9; 1987, No. 808, § 1; 1987 (1st Ex. Sess.), No. 17, § 1; 2001, No. 151, § 43.

24-4-733. Certain county employees — Early retirement incentives.

(a) In addition to the provisions of § 24-4-601 et seq.:

(1)(A) A county employee who is an active member of the County Division of the Arkansas Public Employees' Retirement System on April 7, 1987, and who is vested for a full age and service annuity and who has credit in the system for three (3) consecutive actual years of service with the county immediately prior to his or her retirement date may choose two (2) of the retirement incentives from subdivisions (a)(1)(B)-(D) of this section, provided the employee retires during the period beginning with April 7, 1987, through January 1, 1988, inclusive. Provided further, an employee who participates in this retirement incentive program is not eligible to accept further employment in which the county or any other county is the employer.

(B) For the purpose of computing the county employee member's annuity, the member's highest annual salary will be substituted for his or her final average compensation.

(C) For the purpose of computing the county employee member's annuity, the member will receive additional service credit equal to ten percent (10%) of his or her existing service credit.

(D)(i) A county employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System; and

(2)(A) A county employee who is an active member of the county division of the system on April 7, 1987, and who has credit in the system for three (3) consecutive actual years of service with the county immediately prior to his or her retirement date and who has credit for not less than ten (10) actual years of service and has attained the age of fifty-five (55) or has credit for not less than twenty-eight (28) actual years of service regardless of age may choose two (2) of the retirement incentives from subdivisions (a)(2)(B)-(E) of this section, provided the member retires during the period beginning with April 7, 1987, through January 1, 1988, inclusive. Provided further, an employee who participates in this retirement incentive program is not eligible to accept further employment in which the county or any other county is the employer.

(B) For the purpose of computing the county employee member's annuity, the member's highest annual salary will be substituted for his or her final average compensation.

(C) If the county employee member is within two (2) years of his or her full annuity age and if the member is eligible for an early reduced annuity as provided by § 24-4-510(c) or is within two (2) years of having thirty (30) years' actual credited service, then his or her annuity will not be reduced because of early retirement.

(D) If the county employee member is within two (2) years of attaining the service requirement for a full annuity and has attained his or her full annuity age as provided by § 24-4-508 or is within two (2) years of having thirty (30) years' actual credited service, the member's annuity will not be reduced because of early retirement.

(E)(i) A county employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System.

(b) No position being vacated as a result of a county employee's retiring pursuant to the provisions of this section shall be filled without the approval by resolution of the quorum court.

(c) For those elected county constitutional officers who, as members of the county division of the system, would qualify by meeting all the requirements in subsection (a) of this section to retire under the early retirement incentives in subsection (a) of this section by January 1, 1988, the time period in which they may elect to retire shall be extended to the last day of their current terms for which they are serving.

(d)(1) Nothing in this section shall be construed to allow an elected official to continue to accumulate salary earnings in the system upon which his or her final annuity shall be based.

(2) An elected official opting to retire under subsection (c) of this section shall have all contributions to the system terminated on December 31, 1987.

(e)(1) As used in this section, "contingency reserve fund" means that amount of the Arkansas Public Employees' Retirement System's assets at cost determined by the annual actuarial valuation to be in excess of the total system benefit liabilities.

(2) There shall be annual transfers between the employee's accumulation account and the contingency reserve fund as necessary to recognize the actuarially determined balance of that fund.

(f) Any elected official who qualifies for retirement incentives under this section shall forfeit all retirement benefits if he or she knowingly and willfully misstates the amount of his or her credited service to the system.

History. Acts 1987, No. 717, §§ 1, 3, 4; 1987 (1st Ex. Sess.), No. 17, § 2; 1991, No. 1141, § 1; 2001, No. 151, § 44.

24-4-741. Credit for service in a reciprocal system.

Notwithstanding the provisions of § 24-4-510 regarding total credited service in reciprocal retirement systems, both service in the Arkansas Public Employees' Retirement System as a member of the Arkansas State Claims Commission and service in another reciprocal system during the same period of time may be counted as credited service to meet the service requirements for benefits from the Arkansas Public Employees' Retirement System and another reciprocal system, subject to the following:

(1) The provisions of § 24-4-521 may not be used to meet the minimum service requirements;

(2) The portion of service credit attributed under the provisions of this section shall not be used to determine a member's retirement eligibility or the member's normal retirement age under § 24-4-101;

(3) The benefit payable by a reciprocal system will be based on the credited service in that system and on the final average compensation under that system; and

(4) If a member has less than five (5) actual years of service credited in a reciprocal system, then "final average compensation" means the monthly average of pay to the member during his or her total years of service in that system.

History. Acts 1993, No. 1229, § 1; 2001, No. 151, § 45.

24-4-742. Credit for service with public facilities board, rural waterworks facilities board, regional solid waste management board, joint county and municipal sanitation authority, regional water distribution board, public rehabilitation services corporation, or other local unit of government.

(a) Any full-time employee of a public facilities board, rural waterworks facilities board, regional solid waste management board, joint county and municipal sanitation authority, regional water distribution board, public rehabilitation services corporation, or other local unit of government enrolled in the Arkansas Public Employees' Retirement System pursuant to this act who is a full-time employee of a participating public facilities board, regional solid waste management board, joint county and municipal sanitation authority, regional water distribution board, public rehabilitation services corporation, or other local unit of government in this state on the date his or her employer became, or becomes, a public employer in the system may apply for and receive current service credit for service rendered as a full-time employee of the public facilities board, regional solid waste management board, joint

county and municipal sanitation authority, regional water distribution board, public rehabilitation services corporation, or other local unit of government.

(b) The employee shall receive credit only if the employee or employer pays or causes to be paid to the Arkansas Public Employees' Retirement System Fund all necessary employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

(c) The employer's contributions and employees' contributions, if applicable, shall be transmitted to the system in the form and manner, together with the supporting data, as the Board of Trustees of the Arkansas Public Employees' Retirement System shall prescribe from time to time.

(d) The governing body of any public facilities board, rural water-works facilities board, regional solid waste management board, joint county and municipal sanitation authority, regional water distribution board, public rehabilitation services corporation, or other local unit of government electing to include the full-time employees of the board within the membership of the system may pay the employer contributions and employee contributions, if applicable, on behalf of employees for services rendered.

History. Acts 1995, No. 398, § 5; 1995, No. 1292, § 5; 1997, No. 299, § 23; 2001, No. 151, § 46.

24-4-746. Authority to promulgate rules.

The Board of Trustees of the Arkansas Public Employees' Retirement System shall have the authority to promulgate such rules and regulations as are necessary to provide for the participation of employers defined as public rehabilitative services corporations or other local units of government under the provisions of § 4-34-101 and such local units of government as are provided for under the Arkansas Code. Provided, however, the board shall not admit or retain any employer whose participation in the Arkansas Public Employees' Retirement System would jeopardize the tax-qualified status of the plan under the Internal Revenue Code or that would subject the plan to additional federal requirements, or to any other consequence that the board would determine to be detrimental to the system.

History. Acts 1999, No. 865, § 2; 2001, No. 151, § 47.

24-4-748. Dual full-time employment.

(a) A person who was included in the Arkansas Public Employees' Retirement System for service at full-time employment while at the same time employed full time in another position covered under a municipal police pension and relief fund and whose disqualification from the system was due to dual coverage as a member of a municipal police pension and relief fund may receive service credit as a result of the dual coverage if:

(1) After the initial full-time employment when service credit was lost, the person again becomes a member of the system;

(2) The person applies to receive the lost service credit within five (5) years after the reemployment under the system; and

(3)(A) The member pays or causes to be paid:

(i) The employee contributions at the rate of compensation that would have been paid as a system member during that time;

(ii) Employer contributions based on the normal employer cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had the person been a member during that time; and

(iii)(a) Regular interest on the employee and employer contributions.

(b) Interest shall be computed from the date the service was rendered to the date the payment is received by the system.

(B) The member may purchase all of the service or any portion thereof in multiples of one (1) year.

(b) A person who elects to restore credited service under this section shall be limited to receiving credited service in the system for up to five (5) years of the initial dual full-time employment.

(c) The Board of Trustees of the Arkansas Public Employees' Retirement System shall have the authority to promulgate any necessary forms for application to restore the service and reasonable rules and regulations to implement this section.

History. Acts 2001, No. 1614, § 1.

24-4-749. Purchase of out-of-state governmental service.

(a) A member who has performed service other than military service as an employee of a state or local governmental entity in the United States other than in the State of Arkansas or the federal government may receive credited service for the out-of-state governmental employment if:

(1) The member has at least:

(A) Five (5) years of credited service at the time of application; or

(B) Two (2) years of actual service with the Arkansas Public Employees' Retirement System, at least seven (7) years of actual service credit with a retirement system outside of the State of Arkansas, and is at least sixty-five (65) years of age;

(2) The number of years of out-of-state governmental employment applied for does not exceed five (5) years;

(3) At the time of application the member furnishes evidence of the out-of-state service that is acceptable to the Arkansas Public Employees' Retirement System; and

(4) The member pays to the member's deposit fund an amount equal to the actuarial present value of the credited service applied for under this section based upon assumptions recommended by the actuary.

(b) A member may not receive the credited service provided for in this section if the service is also used for the purpose of establishing entitlement to, or the amount of, any other benefit to be paid by any federal, state, or local government entity except a benefit under the federal Social Security Act.

(c) The service credit provided for in this section is subject to any applicable limits under the Internal Revenue Code.

History. Acts 2005, No. 1021, § 1; 2007, No. 1570, § 1.

Amendments. The 2007 amendment added (a)(1)(B), and made related and stylistic changes.

U.S. Code. The Internal Revenue Code, referred to in (c), is codified as 26 U.S.C. § 1 et seq.

The federal Social Security Act, referred to in (b), is codified as 26 U.S.C. §§ 451, 1401, 1402, 3101, 3102, 3111, 3121, 3122, 3125, 3401, 3402, 6051, 6053, 6205, 6413, 6652, 6674; 42 U.S.C. §§ 401, 402-406, 409, 410, 411, 413, 415-418, 422, 423, 424a, 425, 427, 1306; and 45 U.S.C. §§ 228a, 228e.

24-4-750. Arkansas District Judge Retirement System abolished — Powers, duties, and plan liabilities transferred to Arkansas Public Employees' Retirement System.

(a) The Arkansas District Judge Retirement System, established by § 24-8-801 et seq., is abolished, and its powers, duties, and plan liabilities are transferred to the Arkansas Public Employees' Retirement System by a type 3 transfer as prescribed in § 25-2-106.

(b) For purposes of this act, the Arkansas Public Employees' Retirement System shall be considered a principal department established by Acts 1971, No. 38.

(c)(1) The Arkansas Public Employees' Retirement System shall maintain the same process of payments under § 24-4-751.

(2) Active members of the Arkansas District Judge Retirement System on the date of the transfer shall continue to accrue the same program of benefits received before the transfer.

(3) As employer, the government entity that pays the salary of a district judge shall make contributions to the Arkansas Public Employees' Retirement System as a percent of the salary of the active district judge at the rate previously established to fund the district judge benefit program unless the Arkansas Public Employees' Retirement System's actuary determines that a different required contribution rate should be applied.

(d) Each district judge joining the Arkansas Public Employees' Retirement System after the date of transfer shall be deemed an elected

official of a city or county and shall receive service credit under § 24-4-101(15)(B).

History. Acts 2007, No. 177, § 1.

16-17-135, 19-4-1107, 24-2-401, 24-2-402,

Meaning of "this act". Acts 2007, No.

24-2-502, 24-4-750, 24-4-751, 24-8-318,

177, codified as §§ 16-10-307, 16-10-308,

24-8-807, 24-8-902, and 24-8-904.

24-4-751. Additional funding for retirement benefits.

(a) The government entity that had previously established a local municipal judge's retirement fund shall be required to contribute an amount of money that represents the actuarially determined accrued liability for those judges and former judges who were covered by the local fund on December 31, 2004.

(b) The assets in the local municipal judge retirement fund, not to exceed the amount in subsection (a) of this section, shall be paid to the Arkansas Public Employees' Retirement System on January 1, 2008.

(c) If the local municipal judge retirement fund does not have sufficient money available to pay the amount determined in subsection (a) of this section to the system on January 1, 2008, then the remaining amount of actuarially determined accrued liability shall be paid on or before December 31 each year after for up to the next thirty (30) years based on a thirty-year amortization period.

(d)(1) If the amount in the municipal judge retirement fund is greater than the actuarially determined amount of the liabilities to be transferred to the system, that excess may be retained by the sponsoring government entity for the sole purpose of paying the retirement benefits of district judges.

(2) If at any time in the future an obligation to fund the system no longer exists, then any excess shall be retained by the sponsoring government entity.

(e)(1) The accrued benefit used to determine the accrued liability under this section shall be determined by:

(A) Calculating the benefit that the judge would be eligible to receive on December 31, 2004, as provided by law before July 16, 2003, if the judge was eligible to begin receiving benefits on January 1, 2005; and

(B) Multiplying the amount in subdivision (e)(1)(A) of this section by the number of years of eligible service and then dividing by the greater of either the number of years of service needed to be eligible to retire or the current years of eligible service.

(2) The service years shall be determined under the law before January 1, 2005.

(f) The accrued benefit determined under subsection (e) of this section for any retiree or surviving spouse who is receiving benefits on December 31, 2004, shall be the amount that he or she is receiving or entitled to receive on that date.

History. Acts 2007, No. 177, § 10.

24-4-752. State Police Trust Fund.

(a) All assets of the State Police Retirement System are transferred to the Arkansas Public Employees' Retirement System to hold in trust for the State Police Retirement System.

(b) There is created under the Arkansas Public Employees' Retirement System a division that shall be known as the "State Police Trust Fund".

(c)(1) The State Police Trust Fund shall not be treated as segregated funds but shall be commingled with the assets of the Arkansas Public Employees' Retirement System strictly for investment purposes.

(2) The assets shall be managed solely for the benefit of the retirees and beneficiaries of the State Police Retirement System and shall not be divested from the Arkansas Public Employees' Retirement System unless it can clearly be demonstrated it would be actuarially and fiscally prudent to do so.

(d)(1) As employer, the Department of Arkansas State Police shall make contributions to the State Police Trust Fund based on a percentage of each active state police officer's salary at the rate established to fund the State Police Retirement System's benefit program before July 1, 2009.

(2) All other sources of revenue commonly accruing to the State Police Retirement System shall be payable to the State Police Trust Fund.

(e) The Board of Trustees of the State Police Retirement System, the Board of Trustees of the Arkansas Public Employees' Retirement System, and administrative staff shall be immune from any suit or action based in whole or in part on the transfer of assets contemplated by this act.

History. Acts 2009, No. 1242, § 2.

A.C.R.C. Notes. Acts 2009, No. 1242, § 1, provided: "Legislative history, findings, and intent.

"(a) It is found and determined by the General Assembly that the Department of Arkansas State Police has had ongoing financial difficulty for over twelve (12) years. The State Police Retirement System has sustained investment losses of approximately one hundred million dollars (\$100,000,000) within the last two (2) years, and so needs a larger investment pool to help reduce risk and enhance returns. The Arkansas Public Employees' Retirement System has the size and expertise to effectively reduce the volatility of returns, enhance relative returns, and best protect the State Police Retirement System.

"(b) This act represents a negotiated

alternative to a proposal that would have eliminated the State Police Retirement System and would have made it a division of the Arkansas Public Employees' Retirement System.

"(c) This act maintains the autonomy over State Police Retirement System benefits but ensures funds are invested in a larger, more diversified pool of assets.

"(d) It is contemplated that at such time as the State Police Retirement System attains a funding level in which assets are eighty percent (80%) or more of actuarially accrued liabilities, the Board of Trustees of the State Police Retirement System may consider certain enhancements to the Tier II Deferred Retirement Option Plan."

Meaning of "this act". Acts 2009, No. 1242, codified as §§ 24-4-752, 24-6-204, and § 24-6-501 et seq.

SUBCHAPTER 8 — DEFERRED RETIREMENT OPTION PLAN

SECTION.

24-4-801. Participation.

24-4-802. Eligibility — Effect of election.
[Effective until January 1,
2012.]

24-4-802. Eligibility — Effect of election.
[Effective January 1,
2012.]

SECTION.

24-4-803. Amount of benefit — Amount of
contribution — Interest.

24-4-804. Cessation of participation.

24-4-805. Death or disability.

Effective Dates. Acts 2001, No. 151, § 69; Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 762, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that for the effective administration of this act and to avoid un-

due harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2001."

Acts 2011, No. 38, § 11: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the public retirement systems provide economic security for eligible citizens of Arkansas; that the statutes need amending to update and clarify existing law; and that these changes need to be made immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 558, § 3: Effective on and after Jan. 1, 2012.

24-4-801. Participation.

(a) In lieu of terminating employment and accepting a retirement benefit under the Arkansas Public Employees' Retirement System pursuant to §§ 24-2-201 et seq. and 24-4-101 et seq., any person who is a member of the system and who meets the conditions specified in subsection (b) of this section may elect to participate in the Arkansas Public Employees' Retirement System Deferred Retirement Option

Plan and to defer the receipt of retirement benefits in accordance with the provisions of this subchapter.

(b) The conditions required for full participation in the plan are that the member must have at least thirty (30) years of actual service in the system.

(c) The Board of Trustees of the Arkansas Public Employees' Retirement System, in consultation with its actuary, may promulgate rules and regulations lowering the required years of service for entry into the plan to an amount of not less than twenty-eight (28) years of service, subject to an early participation reduction. The reduction will be computed in a manner that is both equitable to all members and actuarially appropriate for the system.

History. Acts 1997, No. 1052, § 1;
1999, No. 1325, § 2; 2001, No. 151, § 48.

24-4-802. Eligibility — Effect of election. [Effective until January 1, 2012.]

(a) When a member of the Arkansas Public Employees' Retirement System elects participation in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan, the member shall fill out an application form as developed by the Board of Trustees of the Arkansas Public Employees' Retirement System. The member's application shall be reviewed to determine whether or not the member meets the eligibility requirements specified in this subchapter. The member's deferred retirement option date shall be the later of:

(1) The first day of the second month following the system's determination that the member is eligible for plan participation; or

(2) The date requested by the member on the application.

(b)(1) A member who elects participation in the plan may elect one (1) of the annuity options provided in § 24-4-606.

(2) The election shall be deemed to apply to the member's deferred retirement option plan benefit as well as to the member's monthly retirement benefit from the system at the time it becomes payable.

(c)(1) The election to participate in the plan is irrevocable and the duration of participation in the plan for active members shall not exceed seven (7) years.

(2) Under no circumstances shall a member receive service credit under any state-supported retirement system during a period of participation or following a period of such participation in the same retirement system's plan.

(d) When a member begins participation, both employee and employer contributions to the system on behalf of the member shall cease.

History. Acts 1997, No. 1052, § 2; 2001, No. 151, § 49; 2001, No. 762, § 1; 2007, No. 176, § 6.
Publisher's Notes. For text of section effective January 1, 2012, see the following version.

Amendments. The 2007 amendment substituted “the same retirement system’s plan” for “the plan” in (c)(2).

24-4-802. Eligibility — Effect of election. [Effective January 1, 2012.]

(a) When a member of the Arkansas Public Employees’ Retirement System elects participation in the Arkansas Public Employees’ Retirement System Deferred Retirement Option Plan, the member shall fill out an application form as developed by the Board of Trustees of the Arkansas Public Employees’ Retirement System. The member’s application shall be reviewed to determine whether or not the member meets the eligibility requirements specified in this subchapter. The member’s deferred retirement option date shall be the later of:

(1) The first day of the second month following the system’s determination that the member is eligible for plan participation; or

(2) The date requested by the member on the application.

(b)(1) A member who elects participation in the plan may elect one (1) of the annuity options provided in § 24-4-606.

(2) The election shall be deemed to apply to the member’s deferred retirement option plan benefit as well as to the member’s monthly retirement benefit from the system at the time it becomes payable.

(c)(1) The election to participate in the plan is irrevocable and the duration of participation in the plan for active members shall not exceed seven (7) years.

(2) Under no circumstances shall a member receive service credit under any state-supported retirement system during a period of participation or following a period of such participation in the same retirement system’s plan.

(d) When a member begins participation in the plan, the:

(1) Employee contributions to the system on behalf of the member shall cease; and

(2) Employer contributions to the system on behalf of the member shall continue.

History. Acts 1997, No. 1052, § 2; 2001, No. 151, § 49; 2001, No. 762, § 1; 2007, No. 176, § 6; 2011, No. 558, § 2.

Publisher’s Notes. For text of section effective until January 1, 2012, see the preceding version.

Amendments. The 2007 amendment substituted “the same retirement system’s plan” for “the plan” in (c)(2).

The 2011 amendment rewrote (d).

Effective Dates. Acts 2011, No. 558 § 3: effective on and after Jan. 1, 2012.

24-4-803. Amount of benefit — Amount of contribution — Interest.

(a)(1) The member’s deferred benefit shall be the monthly benefit to which the member would have been entitled if the member had thirty (30) years of service and had actually retired on the member’s deferred retirement option date with regard to the provisions of § 24-4-606 related to annuity options.

(2) If the member has less than thirty (30) years of actual service, but at least twenty-eight (28) years of service, the portion of the member's deferred benefit that is contributed to the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan will be reduced by the percentage established by the Board of Trustees of the Arkansas Public Employees' Retirement System, and then shall be subject to the additional computations as set forth in subsections (b) and (c) of this section.

(b) The member's deferred option account shall be the account in which shall be accumulated the member's deferred option contributions, plus interest. Effective July 1, 1999, the Arkansas Public Employees' Retirement System's deferred option contributions shall be at least seventy-five percent (75%) of the system's deferred option benefit with the exact contribution to be determined in accordance with the rules and regulations of the board as is actuarially appropriate for the system. The member shall be informed of the amount of his or her deferred option contribution and informed that his or her selection of the deferred retirement option, the time of the retirement deferral, and the selection of the retirement annuity are irrevocable.

(c) The interest on contributions to the member's deferred option account shall be credited to the individual account balance of the member on an annual basis at the end of each fiscal year. The board shall determine the rate of interest to be credited to each member's deferred option account.

History. Acts 1997, No. 1052, § 3;
1999, No. 535, § 1; 1999, No. 1325, § 3;
2001, No. 151, § 50.

24-4-804. Cessation of participation.

(a) The member's participation in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan shall cease at the time the member separates from service.

(b)(1)(A) When the member's participation in the plan ceases, the member shall elect to receive the balance in the deferred option account as either a lump sum or as a monthly benefit paid in the form elected by the member for payment of the deferred retirement benefit.

(B) The Board of Trustees of the Arkansas Public Employees' Retirement System shall determine factors to be used for the conversion of deferred option account balances to monthly amounts.

(2) Furthermore, when the member's participation in the plan ceases, the board shall cause the member's annuity benefit to be paid directly to the member in the form of regular monthly amounts in the same amount and manner as would have been the case if the member had retired on the deferred retirement option date and had made the same election pursuant to § 24-4-606 that was made on or before the deferred retirement option date.

(c) When a member's participation in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan ceases, that member is not eligible for employment in any position covered by the plans identified in § 24-2-401(3), except as provided for in § 24-4-520.

History. Acts 1997, No. 1052, § 4; **Amendments.** The 2011 amendment 2001, No. 151, § 51; 2011, No. 38, § 9. added (c).

24-4-805. Death or disability.

(a) In the event that an Arkansas Public Employees' Retirement System Deferred Retirement Option Plan participant dies, the benefits payable from the Arkansas Public Employees' Retirement System shall be determined as though the participant had separated from service and been found eligible for monthly benefits by the Board of Trustees of the Arkansas Public Employees' Retirement System on the day prior to the death, with death following immediately thereafter.

(b) In the event that a plan participant applies for benefits from the system pursuant to § 24-4-511 related to disability retirement, the application shall be treated as an application for voluntary retirement pursuant to § 24-4-601 and no benefits other than those that would be payable without regard to the disability shall become payable.

History. Acts 1997, No. 1052, § 5; 2001, No. 151, § 52.

SUBCHAPTER 9 — ARKANSAS RETIREMENT PLAN

SECTION.

24-4-901. Credited service — Reciprocity.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to

avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-4-901. Credited service — Reciprocity.

(a)(1) Upon the retirement of a member whose credited service results from employment covered by:

- (A) The Arkansas Public Employees' Retirement System;
- (B) The State Police Retirement System;
- (C) The Arkansas Teacher Retirement System;
- (D) The Arkansas State Highway Employees' Retirement System;
- (E) The Arkansas Judicial Retirement System;
- (F) An alternate retirement plan under § 24-8-101 et seq. or § 24-9-201 et seq.; or

(G) The Arkansas Local Police and Fire Retirement System, the amount of the member's annuity shall be based upon his or her total credited service in force at the time of the member's retirement, exclusive of any minimums.

(2) Each retirement system shall be responsible financially for only that portion of the annuity based upon the credited service in the plan or system.

(3)(A) The final average compensation on which benefits shall be determined shall be based on the period of total credited service for:

- (i) The Arkansas Public Employees' Retirement System;
- (ii) The State Police Retirement System;
- (iii) The Arkansas Teacher Retirement System;
- (iv) The Arkansas State Highway Employees' Retirement System;

and

(v) The Arkansas Local Police and Fire Retirement System, with each plan or system computing the final average compensation by the method as determined by its laws.

(B) Compensation for credited service in the Arkansas Judicial Retirement System or an alternate retirement plan under § 24-8-101 et seq. or § 24-9-201 et seq. shall not be used to determine final average compensation.

(4) The final average compensation for persons receiving benefits from the Arkansas State Highway Employees' Retirement System shall be based on the final average compensation at the date of termination of employment covered by that system.

(5) The benefit program to be applied to each portion of credited service shall be the benefit program in effect in each plan or system at the time of retirement.

(b)(1) Upon the retirement on disability or death-in-service or death in service of a member of either:

- (A) The Arkansas Public Employees' Retirement System;
- (B) The Arkansas Teacher Retirement System;
- (C) The Arkansas State Highway Employees' Retirement System;
- (D) The Arkansas Judicial Retirement System;
- (E) The State Police Retirement System;
- (F) An alternate retirement plan under § 24-8-101 et seq. or § 24-9-201 et seq.; or

(G) The Arkansas Local Police and Fire Retirement System, who has credited service in more than one (1) of the plans, an annuity shall be payable based upon the member's total credited service with all systems in force at the time of retirement, with each system being

responsible for the payment of such disability or death-in-service benefits as are provided by the applicable provisions of each system's laws or plan's provisions.

(2) If the greatest benefit payable to a survivor is a minimum percentage of the deceased member's final pay or a minimum dollar amount, then each reciprocal system that has a minimum benefit provision in its plan shall only pay a proportionate share of the minimum amount based on the ratio of service in the system to the total service in all reciprocal systems.

(3) A member who dies in service while a member of one (1) reciprocal system shall be considered as currently employed by all systems in which the member has credited service at the time of death.

(4) If a member has service credit in an alternate retirement plan under § 24-8-101 et seq. or § 24-9-201 et seq., disability and death-in-service benefits shall be contingent on provision of those benefits having been provided by the alternate retirement plan and having been selected by the member as a benefit.

(c) Any person retiring on or after July 1, 1982, with credited service in more than one (1) reciprocal system shall have his or her benefits recomputed based on the provisions of this section.

(d) It is the intent of this section to provide reciprocal service credits, as provided by §§ 24-2-401 — 24-2-405, between contributory and noncontributory members of:

- (1) The Arkansas Public Employees' Retirement System;
- (2) The Arkansas Teacher Retirement System;
- (3) The Arkansas Judicial Retirement System;
- (4) The Arkansas State Highway Employees' Retirement System;
- (5) The State Police Retirement System;

(6) An alternate retirement plan for a college, university, or the Department of Higher Education provided for under § 24-8-101 et seq. or for a vocational-technical school or the Department of Career Education provided for under § 24-9-201 et seq.; and

- (7) The Arkansas Local Police and Fire Retirement System.

(e) A member of the Arkansas Public Employees' Retirement System who is receiving a retirement annuity from another reciprocal system as defined in subsection (d) of this section shall not be eligible to use the reciprocal provisions of this section or the reciprocal provisions of §§ 24-2-401 — 24-2-405 to determine the benefit payable by the Arkansas Public Employees' Retirement System.

History. Acts 2001, No. 151, § 53.

SUBCHAPTER 10 — RETIREMENT BENEFITS

SECTION.

24-4-1001. Determination of benefits for wildlife officers — Responsibility for additional costs.

SECTION.

24-4-1002. Benefit provisions — Subjection of annuity rights to process of law.

SECTION.

24-4-1003. Benefit provisions — Inspection of records.

24-4-1004. Determination of benefits for

civilian firefighters of State Military Department — Responsibility for additional costs.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to

avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-4-1001. Determination of benefits for wildlife officers — Responsibility for additional costs.

(a) For purposes of determining benefits under this chapter, all credited service, whenever earned, of persons employed as wildlife officers of the Arkansas State Game and Fish Commission on July 4, 1983, and of persons thereafter employed in such positions prior to July 1, 1997, shall be treated as public safety member service.

(b) The additional cost to the Arkansas Public Employees' Retirement System of this section shall be the responsibility of the commission, and the commission shall pay to the system an additional twelve percent (12%) of covered payroll at the same time as employer contributions are paid by law for other commission employees.

(c) It is the specific intent of this section to provide that the twelve percent (12%) contribution referenced in subsection (b) of this section shall be in addition to those required by § 24-2-701(c).

(d)(1) Any person who is covered on July 3, 1989, by a state-supported retirement system and who was a member of the system on July 4, 1983, in a position defined by the system as "public safety member" shall receive credit for public safety member service for any service as a wildlife officer with the commission, which service was rendered before July 4, 1983.

(2) Provided, the additional cost to the system shall be the responsibility of the member, and the member shall pay to the system any additional cost, as computed by actuarial determination.

History. Acts 2001, No. 151, § 53.

24-4-1002. Benefit provisions — Subjection of annuity rights to process of law.

(a) The right of a person to an annuity, to the return of accumulated contributions, the annuity itself, any annuity option, any other right accrued or accruing under the provisions of § 24-4-101 et seq., and all moneys belonging to a plan shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this chapter.

(b) An employer shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

History. Acts 2001, No. 151, § 53.

24-4-1003. Benefit provisions — Inspection of records.

All records kept by an Arkansas public retirement system, whether required to be kept by law or board policy, shall be open to public inspection as provided in § 25-19-105, except that individual member's records which are kept for the purpose of compiling information for the member's retirement or social security records shall not be open to the public.

History. Acts 2001, No. 151, § 53.

24-4-1004. Determination of benefits for civilian firefighters of State Military Department — Responsibility for additional costs.

(a) For purposes of determining benefits under this chapter, all credited service, whenever earned, of persons employed as civilian firefighters of the State Military Department as of July 1, 1997, and of persons thereafter employed in those positions shall be treated as public safety member service if the position is one hundred percent (100%) federally funded.

(b) The additional cost to the Arkansas Public Employees' Retirement System as computed by actuarial determination is the responsibility of the employer and is in addition to those costs required by § 24-2-701(c).

(c) Employment as a public safety member shall be credited at one and one-half (1½) times the regular rate for crediting service.

History. Acts 2011, No. 978, § 4.

SUBCHAPTER 11 — CONTRIBUTIONS OF MEMBERS TO THEIR DEPOSIT ACCOUNTS**SECTION.**

24-4-1101. Membership.

24-4-1102. Member contributions.

SECTION.

24-4-1103. Benefits generally.

24-4-1104. Annuity options.

SECTION.

- 24-4-1105. Deferred and early annuities.
 24-4-1106. Benefits — Death of retirant.
 24-4-1107. Redetermination of benefits.

SECTION.

- 24-4-1108. Benefit provisions — Death in service.
 24-4-1109. Maximum benefit limitation.

Effective Dates. Acts 2005, No. 2084, § 5: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2009, No. 1200, § 3: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this country is in a recession, that Arkansas retirants have been hurt economically by the recession, that this act will increase benefits for those retirants that served the state the longest period of time, that the fiscal year of the Arkansas Public Employees' Retirement System begins on July 1 of each year, and that these changes are needed by July 1, 2009, in order to have a smooth transition between fiscal years. Therefore, an emergency is declared to exist and this

act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 20, § 5: Feb. 9, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Public Employees' Retirement System currently requires that retirement contributions be based on a member's base salary plus any multipliers; that retirement contributions and benefits should be determined based on a member's base salary and not any multipliers or special salary allowances; and that this act is immediately necessary to clarify the meaning of the term 'compensation' for purposes of the Arkansas Public Employees' Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-4-1101. Membership.

(a) All public employees, as defined in § 24-4-101(17), first hired on or after July 1, 2005, are subject to the benefit provisions of this subchapter.

(b)(1)(A) All public employees hired prior to July 1, 2005, and who are active members of the Arkansas Public Employees' Retirement System on July 1, 2009, shall have six (6) months from July 1, 2009, to elect coverage under the benefit provisions of this subchapter.

(B) If the member elects contributory coverage, the effective date of the member's contributory coverage shall be:

- (i) The first payroll period that is paid and reported in January 2010; and
- (ii) Prospective only.

(2) No conversion or purchase of noncontributory service into contributory service under this subchapter is allowed.

(3) The election shall be made as directed by the Board of Trustees of the Arkansas Public Employees' Retirement System and is irrevocable.

(c)(1)(A) A public employee hired prior to July 1, 2005, and who is an active member of the Arkansas Public Employees' Retirement System on July 1, 2011, shall have six (6) months from July 1, 2011, to elect coverage under the benefit provisions of this subchapter.

(B) If the member elects contributory coverage, the effective date of the member's contributory coverage shall be:

(i) The first payroll period that is paid and reported in January 2012; and

(ii) Prospective only.

(2) Conversion or purchase of noncontributory service into contributory service under this subchapter is prohibited.

(3) The election shall be made as directed by the Board of Trustees of the Arkansas Public Employees' Retirement System and is irrevocable.

(d) Noncontributory members who terminate covered service for a period of more than six (6) months and subsequently return to covered service will be subject to the provisions of this subchapter.

History. Acts 2005, No. 2084, § 4; 2009, No. 742, § 2; 2011, No. 140, § 2. tuted "July 1, 2009" for "July 1, 2005" twice in (b)(1)(A).

Amendments. The 2009 amendment inserted (b)(1)(B), redesignated the remainder of (b)(1) accordingly, and substituted "July 1, 2009" for "July 1, 2005" twice in (b)(1)(A). The 2011 amendment inserted present (c) and redesignated former (c) as (d).

24-4-1102. Member contributions.

(a)(1) The contributions of a member shall be five percent (5%) of the member's annual compensation and shall be placed in the member's deposit account as provided in § 24-4-401.

(2) Interest shall be paid on accumulated member contributions at the rate of four percent (4%) per annum.

(3) As used in this subsection, "compensation" has the same meaning as in § 24-4-101.

(b)(1) For purposes of deferring federal and state income tax under 26 U.S.C. § 414(h)(2), as adopted by § 26-51-414, the employer shall pick up the member's contributions to the Arkansas Public Employees' Retirement System required by this section payable on or after July 1, 2005.

(2)(A) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of salary to a member.

(B) The employer shall be solely responsible for remitting member contributions to the system in a manner consistent with § 24-4-202, including without limitation compliance with deadlines and penalties.

(C) A deduction shall be made from each member's salary equal to the amount of the member's contribution picked up by the employer.

(D) For all other purposes, member contributions picked up by the employer shall be considered member contributions.

(c) Upon termination of covered service, a former member may request a refund of the former member's accumulated contributions under § 24-4-603, except that interest will be credited on all balances for service through the last completed fiscal year as provided in § 24-4-209(a).

History. Acts 2005, No. 2084, § 4; 2007, No. 176, § 7; 2011, No. 20, § 4. noted the following subdivisions accordingly.

Amendments. The 2007 amendment inserted present (b)(2)(B), and redesignated (b)(2)(B) as (b)(2)(C). The 2011 amendment added (a)(3).

24-4-1103. Benefits generally.

(a)(1) Upon retirement under this subchapter, a member shall receive a straight life pension equal to two and three one-hundredths percent (2.03%) of the member's final average compensation multiplied by the number of years and any fraction of a year of the member's service for each year of contributory service rendered prior to July 1, 2007.

(2) For each year of contributory service in the Arkansas Public Employees' Retirement System rendered after June 30, 2007, the member shall receive two percent (2%) of the member's final average compensation multiplied by the number of years and any fraction of a year of the member's service.

(3) For each year of actual service in the system in excess of twenty-eight (28) years that is rendered on or after July 1, 2009, a member shall receive a straight life annuity equal to an additional five-tenths percent (0.5%) of the member's final average compensation.

(b) Any member may voluntarily retire upon filing a written application with the Board of Trustees of the Arkansas Public Employees' Retirement System not less than thirty (30) days nor more than ninety (90) days before the date the member desires to be retired if that member has:

(1) Twenty-eight (28) or more years of credited service regardless of age; or

(2)(A) Attained or attains sixty-five (65) years of age and has five (5) or more years of actual service.

(B) However, a member of the General Assembly must have ten (10) or more years of actual service if the member only has service as a member of the General Assembly.

(c) No temporary annuity will be provided to members covered by this subchapter.

(d) The maximum benefit payable upon retirement shall be one hundred percent (100%) of the member's final average compensation without regard to any postretirement increases enacted by the General Assembly.

History. Acts 2005, No. 2084, § 4; Acts 2007, No. 220, § 2; 2009, No. 1200, § 2.

Amendments. The 2007 amendment added the (a)(1) designation and added (a)(2); and in (a)(1), substituted “two and

three one-hundredths percent (2.03%)” for “two percent (2%)” and added “for each year of contributory service rendered prior to July 1, 2007.”

The 2009 amendment inserted (a)(3).

24-4-1104. Annuity options.

Before the date the first payment of a member’s annuity is due, a member may elect to receive the annuity as a straight life annuity or as one (1) of the reduced annuity options provided in § 24-4-606.

History. Acts 2005, No. 2084, § 4.

24-4-1105. Deferred and early annuities.

(a) Any member or former member with sufficient years of actual service to qualify for a vested termination annuity who has not attained normal retirement age may retire with an early annuity provided in § 24-4-510(a).

(b) In the event a member with five (5) or more years of actual service in the Arkansas Public Employees’ Retirement System ceases employment as a covered member before reaching sixty-five (65) years of age or attaining twenty-eight (28) years of service and does not withdraw his or her accumulated employee contributions to the system, the member is entitled to receive an annuity upon attainment of sixty-five (65) years of age and submission of a retirement application to the system.

(c) If a former member has applied for a refund of contributions but returns to employment with a participating public employer prior to the date the refunded contributions are received, the request is void and employment must be terminated again to request a refund of contributions.

History. Acts 2005, No. 2084, § 4.

24-4-1106. Benefits — Death of retirant.

(a) In the event a retirant receiving a straight life pension dies before the retirant has received an aggregate amount of straight life pension payments equal to the accumulated contributions credited in the retirant’s deposit account at the time of retirement, the difference between the accumulated contributions and the aggregate amount of straight life pension payments received by the retirant shall be paid to the named beneficiary.

(b) If no designated person survives the retirant, the difference, if any, shall be paid in accordance with the laws of descent and distribution of the State of Arkansas.

(c) The payments may be made directly to a curator, guardian, administrator, or executor authorized to receive the payments with or without the appointment of a representative in this state.

(d) No benefits will be paid under this section if survivor benefits are otherwise payable to a named beneficiary.

History. Acts 2005, No. 2084, § 4.

24-4-1107. Redetermination of benefits.

(a) Each July 1 the Arkansas Public Employees' Retirement System shall redetermine the amount of each monthly benefit that has been payable by the system for at least twelve (12) calendar months. The redetermined amount is payable for the following twelve (12) calendar months.

(b) The redetermined amount is the amount of the benefit payable as of the immediately preceding July 1 increased by three percent (3%).

History. Acts 2005, No. 2084, § 4.

24-4-1108. Benefit provisions — Death in service.

(a)(1) If an active member or former member with less than five (5) years of actual service dies while employed by a covered employer, the member's accumulated contributions and interest are refundable to the named beneficiary.

(2) If no designated person survives the member, the accumulated contributions will be paid in accordance with the laws of descent and distribution of the State of Arkansas.

(3) The payments may be made directly to a curator, guardian, administrator, or executor authorized to receive the payments with or without the appointment of a representative in this state.

(b) If an active member or former member with five (5) or more years of actual service dies before retirement, the benefits under this section will be paid upon written application to the Board of Trustees of the Arkansas Public Employees' Retirement System as provided in § 24-4-608.

History. Acts 2005, No. 2084, § 4.

24-4-1109. Maximum benefit limitation.

(a) Benefits paid under this chapter shall not exceed the limitations of section 415 of the Internal Revenue Code that are applicable to governmental retirement plans.

(b)(1) The Board of Trustees of the Arkansas Public Employees' Retirement System is authorized to promulgate all rules necessary to implement the limitations of section 415 of the Internal Revenue Code.

(2) The rules adopted by the board under this section shall be amended to reflect any changes in the content or application of section 415 of the Internal Revenue Code enacted by Congress or promulgated by the Internal Revenue Service.

History. Acts 2005, No. 2084, § 4.
U.S. Code. Section 415 of the Internal

Revenue Code referred to in (b)(2) is codified as 26 U.S.C. § 415.

CHAPTER 5

ARKANSAS STATE HIGHWAY EMPLOYEES' RETIREMENT

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. DEFERRED RETIREMENT OPTION PLAN.

A.C.R.C. Notes. References to "this chapter" in §§ 24-5-101 to 24-5-133 may not apply to §§ 24-5-134 — 24-5-137, which were enacted subsequently.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 24-5-101. Definitions.
- 24-5-102. Penalty.
- 24-5-106. Establishment of retirement fund.
- 24-5-111. [Repealed.]
- 24-5-115. Benefits generally.
- 24-5-117. Benefits — Withdrawal from service.
- 24-5-118. Benefits — Annuity options.
- 24-5-121. [Repealed.]
- 24-5-123. Credit for military service.
- 24-5-125. Eligibility to receive increase in benefits.

SECTION.

- 24-5-131. Limitation on benefit enhancement of Acts 1997, No. 1089.
- 24-5-132. Limitation on benefit enhancement of Acts 1997, No. 1067.
- 24-5-134. Death benefit enhancement.
- 24-5-135. Annuity benefit enhancement.
- 24-5-136. Operation of system as qualified trust.
- 24-5-137. Compliance with Section 415 of the Internal Revenue Code.

Effective Dates. Acts 2001, No. 482, § 3: Mar. 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that deceased retirees of the Arkansas State Highway Employees' Retirement System leave beneficiaries in need of financial support, that there is a necessity of financial stability for beneficiaries during this time of crisis, that this benefit is then important to provide for retirees immediately, and that this act should therefore have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor

may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 539, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that benefits provided under the Arkansas State Highway Employees' Retirement System are inadequate and an increase should be provided as soon as practicable in order to avoid an undue hardship that, in order for the Arkansas State Highway and Transportation Department to continue to retain and recruit efficient and skilled employees, the system must immediately increase the multiplier amount for retirement benefit purposes, and that benefits provided to retirants and beneficiaries under the Arkansas State Highway Employees' Retirement System are inad-

equate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to the retirants and beneficiaries. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 205, § 2: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that annuity provisions of the State Highway Employees' Retirement System need revisions to make them more actuarially accurate for present and future retirees in order to not endanger the financial status of the system; that implementation of these revised actuarial adjustments need to be implemented at a precise time and before the normal time for the effectiveness of other laws; and that they need to be effective at the beginning of the fiscal year for state government. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2003."

Acts 2005, No. 144, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that due to the ever escalating costs of health insurance and health care, benefits provided under the Arkansas State Highway Employees' Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect on and after July 1, 2005."

Acts 2009, No. 439, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that this language more equably allocates the health care offset benefits provided under the Arkansas State Highway Employees' Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect on and after July 1, 2009."

Acts 2011, No. 564, § 6: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas State Highway Employees' Retirement System law are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas State Highway Employees' Retirement System and to other citizens of the State of Arkansas; that a member's purchase of service credit currently provides that a member pay the system yesterday's dollars for the value of today's benefits; that such a valuation is unfair to the members as a whole and inconsistent with the prudent management of the system's funds and obligations; that the purchase of service credit in the system should be based upon actuarial equivalents; that the purchase of service credit should be paid in a lump sum to the system unless otherwise authorized; that current service purchase accounts remain unpaid and inactive for many years at a time and create an administrative burden and accounting difficulty on the system that can be remedied by the passage of this act; and that this act is necessary to maintain an orderly system of benefits for the members of the Arkansas State Highway Employees' Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

24-5-101. Definitions.

As used in this chapter:

(1) "Accumulated contribution" means the sum of all amounts deducted from the salary or wages of a member, or paid by a member, and credited to his or her individual account, together with any interest the

Board of Trustees of the Arkansas State Highway Employees' Retirement System may have authorized to be credited to the member's account;

(2) "Actuarial equivalent" means a benefit of equal reserve value when reserve is the present value of all payment to be made on account of any benefit based upon such reasonable rate of interest and table of experience as a plan shall adopt from time to time;

(3) "Average compensation" means the average of the highest annual compensation paid a member during any period of thirty-six (36) consecutive months of creditable service with a state employer, as the term "state employer" is defined in § 24-2-401;

(4) "Board" means the Board of Trustees of the Arkansas State Highway Employees' Retirement System;

(5)(A) "Creditable service" means the current service of the member plus the portion of prior service time for which contributions have been made or elected to be made by the member.

(B) Retirement benefits shall be computed upon the creditable service of the member.

(C) The board shall determine by appropriate rules how much service in any fiscal year is the equivalent of a year of creditable service;

(6) "Current service" means service as an employee of the Arkansas State Highway and Transportation Department after the date of establishment of the system and may include the period of time during which the employee's service may have been interrupted by service in the armed forces of the United States. The annual earnings for a military service period shall be computed in the manner set forth for prior service in subdivision (12) of this section;

(7)(A) "Employee" means any employee of the Arkansas State Highway and Transportation Department whose compensation is, or was, payable on an hourly, biweekly, monthly, annual, or other basis by the department, including any employee of the department whose salary is paid or reimbursed, in whole or in part, from federal or other funds.

(B) "Employee" does not include persons who are employees of the Arkansas State Highway and Transportation Department on or after July 1, 1997, and who are eligible for benefits under, or who are earning a retirement benefit from, another state-supported retirement system;

(8) "Employer" means the Arkansas State Highway and Transportation Department;

(9) "Lump-sum service" means that, upon termination of employment with the Arkansas State Highway and Transportation Department for whatever reason, all lump-sum payments of leave, salary, or other compensation shall be earnings for retirement purposes. Both the time and amount paid shall be considered for purposes of computing average earnings and service in the Arkansas State Highway Employees' Retirement System, and both the member's and the employer's contribution rates shall apply to the lump-sum payments;

(10) "Member" means any person who has, by due process, had issued to him or her a certificate of membership in the Arkansas State Highway Employees' Retirement System;

(11) "Prior service" means all service as an employee of the Arkansas State Highway and Transportation Department before the date of establishment of the system;

(12)(A) "Prior service earnings" means the authenticated record filed with and approved by the board setting forth the salary received by the member for each fiscal year, or portion thereof, of his or her prior service as an employee, beginning with his or her last year of prior service and continuing in reverse chronological order.

(B) Prior service earnings records may include the period of time during which the employee's service may have been interrupted for service in the armed forces of the United States, in which case the annual earnings for the military service period of the member shall be computed upon the average of his or her last twelve (12) months' compensation from the Arkansas State Highway and Transportation Department before his or her entry into the armed forces and the first twelve (12) months' compensation after reemployment by the department;

(13) "Prorate" means the amount obligated in § 24-5-125 less any amount paid for similar benefits by other reciprocal systems, as such systems are enumerated in § 24-4-401;

(14) "Salary" or "compensation" means the total remuneration earned by an employee for services rendered during any consecutive twelve (12) months or fraction thereof; and

(15) "System" means the Arkansas State Highway Employees' Retirement System.

History. Acts 1949, No. 454, § 1; 1953, No. 403, §§ 1, 2; 1969, No. 167, § 1; 1979, No. 126, § 1; 1981, No. 295, §§ 1, 2; 1983, No. 464, § 1; A.S.A. 1947, § 76-1901; Acts 1993, No. 930, § 1; 1997, No. 349, § 1; 1997, No. 955, § 1; 2011, No. 18, § 1; 2011, No. 564, § 1.

Amendments. The 2011 amendment by No. 18 deleted "unless the context otherwise requires" from the introductory language; in (1), inserted "or her" and substituted "Board of Trustees of the Arkansas State Highway Employees' Retirement

System" for "board"; inserted present (2) and (12) and redesignated the remaining subdivisions accordingly; in (3), substituted "Arkansas" for "Arkansa" and deleted "as created by this chapter" from the end; deleted "and regulations" following "rules" in (4)(C); substituted "'Employee' does not" for "The term 'employee' specifically shall not" in (7)(B); and inserted "or her" twice in (11)(A) and twice in (11)(B).

The 2011 amendment by No. 564 added (14).

24-5-102. Penalty.

Any person who knowingly makes any false statement or who falsifies any record or records in an attempt to defraud the Arkansas State Highway Employees' Retirement System as a result of such an act shall be guilty of a Class A misdemeanor.

History. Acts 1949, No. 454, § 6; 1981, No. 295, § 6; A.S.A. 1947, § 76-1906; Acts 2005, No. 1994, § 363.

24-5-106. Establishment of retirement fund.

(a) There is created a trust fund to be known as the “Arkansas State Highway Employees’ Retirement System Fund”, which shall be the depository for moneys in the State Treasury or the designated bank as provided for in this chapter.

(b) The employer shall draw vouchers or cause vouchers to be drawn upon the State Highway and Transportation Department Fund for deposit into the Arkansas State Highway Employees’ Retirement System Fund for such sums of money as are provided in § 24-5-109 to match employee contributions as certified by the Executive Secretary of the Board of Trustees of the Arkansas State Highway Employees’ Retirement System:

(1) In accordance with the provisions of §§ 24-5-101 — 24-5-109 and 24-5-112 — 24-5-118; or

(2) As provided under § 24-5-137.

(c)(1) The Treasurer of State, or a designated bank, shall be the legal custodian of the securities of the system, subject to the orders and directions of the Board of Trustees of the Arkansas State Highway Employees’ Retirement System.

(2) The Arkansas State Highway Employees’ Retirement System may deposit with the Treasurer of State, or a designated bank, safekeeping receipts or, in the case of federal bookkeeping entries, the evidence of investment that is issued in lieu of the actual securities.

(d) The Attorney General shall serve as legal advisor to the board.

(e) It shall be the duty of the Legislative Auditor to audit the finances of the system once a year or more often if either the auditor or the board consider such action necessary.

History. Acts 1949, No. 454, § 4; 1969, No. 167, § 3; 1981, No. 295, §§ 4, 5; A.S.A. 1947, § 76-1904; Acts 2011, No. 16, § 1.

Amendments. The 2011 amendment subdivided (b) and added (b)(2); and sub-

stituted “Executive Secretary of the Board of Trustees of the Arkansas State Highway Employees’ Retirement System” for “executive secretary” in the introductory language of (b).

24-5-111. [Repealed.]

Publisher’s Notes. This section, concerning credit for prior service with public employer, was repealed by Acts 2011, No.

564, § 2. The section was derived from Acts 1967, No. 254, § 2; A.S.A. 1947, § 76-1914.

24-5-115. Benefits generally.

(a)(1) Members retired for the reasons set forth in §§ 24-5-112 — 24-5-114 shall be eligible for annual retirement benefits based on two and two-tenths percent (2.2%) of their average compensation, as defined in § 24-5-101, limited to the amount upon which contributions,

including supplemental contributions under the provisions of § 24-5-108(b), have been made, multiplied by the number of years of creditable service in the Arkansas State Highway Employees' Retirement System.

(2) Payments shall be made in equal monthly installments.

(b)(1) In the event a member has not completed payment of his or her service contributions as provided for in § 24-5-108(b) and is current in his or her service contributions at the time of retirement, the Board of Trustees of the Arkansas State Highway Employees' Retirement System is authorized to deduct from each monthly annuity payment an amount equal to one-twelfth (1/12) of the unpaid balance of the service contributions.

(2) The deductions shall continue until all service contributions have been paid in full.

History. Acts 1949, No. 454, § 12; 246, § 1; 1997, No. 386, § 1; 2001, No. 1969, No. 167, § 8; A.S.A. 1947, § 76- 539, § 1.
1912; Acts 1991, No. 41, § 1; 1991, No.

24-5-117. Benefits — Withdrawal from service.

(a)(1) In the case of withdrawal from service within less than one (1) year after having become a member of the Arkansas State Highway Employees' Retirement System, the Board of Trustees of the Arkansas State Highway Employees' Retirement System, upon request, shall pay to the member all of his or her accumulated contributions without interest.

(2)(A) If withdrawal occurs after one (1) year of membership in the system, the board, upon request, shall pay to the member all of his or her accumulated contributions plus interest as determined by the board.

(B) The member so reimbursed shall have no legal claim on any contribution made by the state with a view to his or her retirement.

(3) Payment to a member under the conditions set forth in this subsection shall be made as provided by the board.

(4) A member's interest in the system shall be exempt from attachment and execution.

(b)(1) In the case of an employee's withdrawal from service after becoming a member of the system and when the employee's contribution has accumulated to a total of less than two hundred fifty dollars (\$250), then the employee's accumulated contribution shall become forfeit to the Arkansas State Highway Employees' Retirement System Fund unless withdrawn by the former employee from the fund within the first three (3) years following the employee's termination of service with the Arkansas State Highway and Transportation Department, provided that such employee is not a member of a reciprocal system.

(2) In the event of forfeiture to the fund, the former employee shall have no further claim upon the system.

(c) The payment of the cost of the refunded service shall be based on an actuarial equivalent as prescribed by the board if a member:

- (1) Is reemployed by a state employer;
- (2) Has received a refund from the Arkansas State Highway Employees' Retirement System; and
- (3) Seeks to reinstate time withdrawn.

History. Acts 1949, No. 454, § 12; 1969, No. 167, § 9; 1979, No. 126, § 2; A.S.A. 1947, § 76-1912; Acts 1999, No. 33, § 1; 2011, No. 564, § 3.

Amendments. The 2011 amendment added (c).

24-5-118. Benefits — Annuity options.

(a) Before the date the first payment of an annuity becomes due, but not thereafter, a person about to become a retirant may elect, in lieu of a straight life annuity as set forth in § 24-5-115, to have the annuity reduced and to nominate a beneficiary, as provided by Option A or Option B:

(1) OPTION A.

(A)(i) Under Option A, an annuity payable to the retirant shall be reduced by an amount calculated to provide an actuarially equivalent benefit to the annuity payable under § 24-5-115.

(ii) This subdivision (a)(1)(A) shall apply to all members and retirants.

(B) If the retirant dies before having received one hundred twenty (120) monthly payments of the reduced annuity, the reduced annuity to which the retirant would have been entitled, if living, shall be paid for the remainder of the one-hundred-twenty-month period to such person as the deceased retirant shall have nominated by written designation, duly executed and filed with the Board of Trustees of the Arkansas State Highway Employees' Retirement System.

(C) If the beneficiary does not survive the retirant, the retirant may name another beneficiary, or failing to name a beneficiary, the annuity reserve for the annuity for the remainder of the one-hundred-twenty-month period shall be paid to the retirant's estate.

(D) If the beneficiary survives the retirant but dies before the end of the one-hundred-twenty-month period, the annuity reserve for the annuity for the remainder of the one-hundred-twenty-month period shall be paid to the beneficiary's designated beneficiary; or

(2) OPTION B.

(A)(i)(a) Under Option B, an annuity payable to the retirant and surviving beneficiary shall be reduced by an amount calculated to provide an actuarially equivalent benefit to the annuity payable under § 24-5-115.

(b) The reduction factor is calculated as the ratio of the actuarial present value of a joint and a fifty percent (50%) survivor annuity to the actuarial present value of the annuity payable under § 24-5-115.

(c) The present values are calculated using standard actuarial formulas and based on a mortality table and discount interest rate calculated by the plan's actuary.

(d) This subdivision (a)(2)(B)(i) shall apply to all members and retirants.

(ii) Upon the retirant's death, one-half ($\frac{1}{2}$) of the reduced annuity to which the retirant would have been entitled, if living, shall be paid to the surviving beneficiary for the remainder of his or her life, if the beneficiary was either the retirant's spouse for at least two (2) years immediately preceding the first payment due date of the retired member's annuity or another person age forty (40) or older on the first payment due date receiving more than one-half ($\frac{1}{2}$) of his or her support from the retirant for at least two (2) years immediately preceding the first payment due date of the retired member's annuity.

(iii) If both the retirant and his or her named beneficiary die before the annuity payments have amounted to the sum of the member's accumulated contributions and interest that is vested at the date of retirement, the difference between the benefits paid and the member's contribution account at the date of retirement shall be paid to the estate of the person to whom the last annuity preceding death was paid.

(iv) If no annuities had been paid prior to the member's death, then the balance in the member's account shall be paid to the member's estate.

(B)(i) Should the eligible beneficiary of a member retirant who selected Option B predecease the member retirant, or if divorce or other marriage dissolution occurs, or should the beneficiary who is not a spouse cease to be a qualified beneficiary, then the retirant, by written notification to the Arkansas State Highway Employees' Retirement System, may cancel Option B chosen at retirement and return to a straight life annuity, to be effective the month following receipt of the notification by the system.

(ii) The straight life annuity so elected shall then be the amount of the Option B annuity at the date of notification, less any increase that is excluded from the base annuity, multiplied by a fraction, the numerator of which is one hundred (100) and the denominator of which is the percentage of the straight life annuity that the retirant received at the date of retirement, plus the nonbase increase that was excluded in the computation. The effect of the foregoing shall be that the retirant's monthly annuity, after cancellation of Option B, shall be the same amount that it would have been had a straight life annuity been selected at the date of retirement.

(iii) No further changes in benefit options for retirants shall be permitted.

(b) If an active member with five (5) or more years of credited service, including credited service for the year immediately preceding his or her death, dies in employer service before retirement, the applicable benefits provided in this section shall be paid upon written application to the board. It is the intent of this section to include all surviving spouses or beneficiaries, regardless of the time of the death of the member.

(c) The effective date of the benefits provided in this section shall in no event be prior to the first day succeeding the member's death.

(d) A member's surviving spouse who was married to the member at least the one (1) year immediately preceding his or her death shall receive an annuity computed in the same manner in all respects as if the member had:

(1) Retired the date of his or her death with entitlement to an annuity provided for in § 24-5-115;

(2) Elected the Option A survivor annuity provided for in subdivision (a)(1) of this section; and

(3) Nominated his or her spouse as joint beneficiary provided for in subdivision (a)(2)(A) of this section.

History. Acts 1949, No. 454, § 12; 1971, No. 246, § 1; 1975, No. 599, § 3; 1983, No. 464, § 2; 1985, No. 106, § 1; A.S.A. 1947, § 76-1912; Acts 1987, No. 119, § 1; 1987, No. 315, § 1; 1997, No. 347, § 6; 1997, No. 1053, § 17; 1997, No. 1067, § 1; 1999, No. 1508, § 7; 2003, No. 205, § 1.

A.C.R.C. Notes. Because of an appar-

ent engrossment error, Acts 2003, No. 205, § 1 added the following language to subdivision (a)(2)(B)(iii): "except under subsection (e) of this section". The Arkansas Code Revision Commission has removed this language from subdivision (a)(2)(B)(iii) pursuant to the commission's authority under § 1-2-303.

24-5-121. [Repealed.]

Publisher's Notes. This section, concerning life annuities for surviving spouse — return of funds previously withdrawn, was repealed by Acts 2011, No. 564, § 4.

The section was derived from Acts 1971, No. 458, § 1; 1973, No. 185, § 1; A.S.A. 1947, § 76-1916.

24-5-123. Credit for military service.

(a) Any person who is a member of the Arkansas State Highway Employees' Retirement System shall be entitled to purchase creditable service in the system for a period not to exceed three (3) years for active service rendered by the member in the armed forces of the United States, after the member's first employment in a position covered by a state-supported retirement system, excluding active service for the purpose of attending schools or other peacetime training of the member in the military reserve or national guard, if the person:

(1) Has ten (10) years of creditable service with this retirement system;

(2) Received an honorable discharge from the armed forces;

(3) Is not receiving federal military service retirement pay, excluding federal military disability retirement pay;

(4) Is not qualified to claim the military service in the system under § 24-2-502 or § 24-5-101 et seq.; and

(5)(A) Except as provided in subdivision (a)(5)(B) of this section, contributes to the members' deposit account a sum of money equal to an amount based on an actuarial equivalent as prescribed by the

Board of Trustees of the Arkansas State Highway Employees' Retirement System.

(B) Subdivision (a)(5)(A) of this section does not apply if this section conflicts with the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 et seq., as in effect on February 1, 2011, as it provides for employees who leave employment for active military service.

(b)(1) Interest shall be paid at the rate of six percent (6%) per year from December 31, 1987, or six (6) months after the end of the month in which the member first has ten (10) years of creditable service, whichever is later.

(2) In no event may payments be extended beyond three (3) years from the date of application.

(3) It is further required that all payments must be completed before this military service time can be used to compute annuity benefits at time of retirement.

(c)(1) This section shall be supplemental to any other laws relating to the members of the system. Nothing in this section shall be construed to repeal or modify any existing provisions of this system's laws providing for creditable service in the system for military service, nor to diminish the right of any member of this system to obtain creditable service in the system for military service under existing laws.

(2)(A) In no event shall any member of this system be entitled to receive in excess of five (5) years of creditable service for military service rendered by the member.

(B) No member shall be eligible for creditable service in more than one (1) state-supported retirement system.

History. Acts 1987, No. 455, §§ 1, 2; added the (a)(5)(A) designation and re-wrote (a)(5)(A); and inserted (a)(5)(B).
2011, No. 564, § 5.

Amendments. The 2011 amendment

24-5-125. Eligibility to receive increase in benefits.

(a)(1) In order to help offset the cost of health insurance and health care, a member who is receiving benefits from the Arkansas State Highway Employees' Retirement System before, on, or subsequent to July 1, 1999, shall have added to his or her annuity as determined under § 24-5-115 no less than the sum of one hundred twenty-five dollars (\$125) per month, provided that:

(A) The Board of Trustees of the Arkansas State Highway Employees' Retirement System may elect and is granted the authority to increase that additional monthly sum to all such eligible individuals in an amount determined by the board as necessary to help offset the ever-escalating costs of health insurance and health care;

(B) The additional monthly sum shall not exceed two hundred fifty dollars (\$250) per month; and

(C) A member who initiates receiving benefits:

(i) July 1, 2005, through June 30, 2009, has at least five (5) years of service in the system; or

(ii) July 1, 2009, has at least ten (10) years of service in the system.

(2) No benefits enhancement provided by this section shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) In its discretion, the board may prorate the benefits provided under this section for any individual retiring after June 30, 1999, but before July 1, 2009, if the individual is also eligible for an additional monthly benefit as a result of credited service under one (1) or more of the other reciprocal systems, as such systems are enumerated in § 24-2-401.

(c) A member who initiates receiving benefits on or after July 1, 2009, shall be eligible for a minimum increase in benefits as determined under § 24-5-115 under the following schedule:

(1) A member who has accrued ten (10) years but less than fifteen (15) years of service in the system is eligible to receive sixty percent (60%) of the health care offset as provided in § 24-5-125(a)(1);

(2) A member who has accrued fifteen (15) years but less than twenty (20) years of service in the system is eligible to receive eighty percent (80%) of the health care offset as provided in § 24-5-125(a)(1);

(3) A member who has accrued twenty (20) years or more of service in the system is eligible to receive one hundred percent (100%) of the health care offset as provided in § 24-5-125(a)(1);

(4) If the member is eligible for an additional monthly benefit as a result of credited service under one (1) or more of the reciprocal systems, as such systems are enumerated in § 24-2-401, the board in its discretion may prorate the benefits provided under this section for all members retiring after June 30, 2009.

(d) Nothing contained in this section shall require the system to pay any portion of the benefits provided for in this section.

History. Acts 1991, No. 245, §§ 1-3; 1999, No. 311, § 1; 1999, No. 1066, § 7; 1999, No. 1325, § 8; 2005, No. 144, § 1; 2009, No. 439, § 1.

Amendments. The 2009 amendment, in (a)(1) substituted "a member" for "any

individual," "before" for "prior to," "under" for "pursuant to," and "provided" for "provide"; rewrote (a)(1)(C); in (b) inserted "but before July 1, 2009"; added (c) and redesignated the remaining text accordingly.

24-5-131. Limitation on benefit enhancement of Acts 1997, No. 1089.

No benefit enhancement provided for by § 24-5-116 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by § 24-5-116 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is

reduced to a level less than the standards prescribed by § 24-1-101 et seq.

History. Acts 1997, No. 1089, § 2.

version of this section that appears in the bound volume.

A.C.R.C. Notes. This section is set out above to correct a codification error in the

24-5-132. Limitation on benefit enhancement of Acts 1997, No. 1067.

No benefit enhancement provided for by § 24-5-118 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by § 24-5-118 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

History. Acts 1997, No. 1067, § 2.

appears in the bound volume. The bound

A.C.R.C. Notes. This section is set out above to correct a codification error that

volume incorrectly lists this section as having been repealed.

24-5-134. Death benefit enhancement.

(a)(1) Beginning on March 1, 2001, the Arkansas State Highway Employees' Retirement System shall pay an amount not to exceed seven thousand five hundred dollars (\$7,500) to the named beneficiary of the retiree or a member in the Arkansas State Highway Employees' Deferred Retirement Option Plan immediately following the retiree's death.

(2) If there is more than one (1) named beneficiary, the amount shall be divided equally between the named beneficiaries.

(3) If there are no designated persons surviving the retiree or plan member, the lump sum shall be paid to the estate.

(b) If a retiree or a plan member is entitled to a similar benefit from a reciprocal system, then the Arkansas State Highway Employees' Retirement System shall pay a prorated share based on the number of years in the Arkansas State Highway Employees' Retirement System divided by the total public service time.

History. Acts 2001, No. 482, § 1.

acted subsequently.

A.C.R.C. Notes. References to "this chapter" in §§ 24-5-101 to 24-5-133 may not apply to this section which was en-

References to "this chapter" in subchapter 1 may not apply to this section which was enacted subsequently.

24-5-135. Annuity benefit enhancement.

(a) Beginning July 1, 2001, the monthly retirement benefit payable to the retirees and beneficiaries of the Arkansas State Highway Employees' Retirement System who are entitled to receive an annuity

for July 2001 shall be increased by four and eight-tenths percent (4.8%) above the annuity the retiree or beneficiary received for June 2001.

(b) The increase in benefits as provided in this section shall be added to the annuity for the purpose of computing the annual post-retirement increase as provided in § 24-5-119(a) for the benefit re-determination July 1, 2001.

History. Acts 2001, No. 539, § 2.

not apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to “this chapter” in §§ 24-5-101 to 24-5-133 may

24-5-136. Operation of system as qualified trust.

(a) The Executive Secretary of the Arkansas State Highway Employees’ Retirement System shall operate the system and interpret any provisions of this chapter consistent with the requirements under the Internal Revenue Code as it existed on January 1, 2007, and applicable United States Treasury regulations as they existed on January 1, 2007, to permit the system to be operated as a qualified trust under section 401(a) of the Internal Revenue Code as it existed on January 1, 2007.

(b) Notwithstanding any language to the contrary under this chapter, the Board of Trustees of the Arkansas State Highway Employees’ Retirement System may promulgate rules consistent with subsection (a) of this section.

(c) Any rule promulgated under this section that is found to be in conflict with an applicable provision of Arkansas law is void.

History. Acts 2007, No. 399, § 1.

not apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to “this chapter” in §§ 24-5-101 to 24-5-133 may

24-5-137. Compliance with Section 415 of the Internal Revenue Code.

(a) Notwithstanding any other provision of this chapter, benefits paid under this chapter shall not exceed the limitations of Section 415 of the Internal Revenue Code, as it existed on January 1, 2011, that are applicable to governmental plans.

(b) The Board of Trustees of the Arkansas State Highway Employees’ Retirement System may promulgate rules to implement the limitations of Section 415 of the Internal Revenue Code, as it existed on January 1, 2011, including, to the extent necessary, the payment of any benefit limited by Section 415 of the Internal Revenue Code, as it existed on January 1, 2011, under an arrangement described in Section 415(m) of the Internal Revenue Code, as it existed on January 1, 2011.

History. Acts 2011, No. 16, § 2.

not apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to “this chapter” in §§ 24-5-101 to 24-5-133 may

SUBCHAPTER 2 — DEFERRED RETIREMENT OPTION PLAN

SECTION.

24-5-202. Requirements.

Effective Dates. Acts 2003, No. 776, § 2: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the benefits for members of the Arkansas State Highway Employees' Retirement System are inadequate; that the benefits should be increased to continue to motivate the highway department em-

ployees of our state government; that the most beneficial time to increase the benefits is during the beginning of the state fiscal year; and this act is necessary to take effect at that time. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

24-5-202. Requirements.

(a) In the event a plan is established, the Arkansas State Highway Employees' Deferred Retirement Option Plan shall have, as a minimum, provisions which require that:

(1) The Board of Trustees of the Arkansas State Highway Employees' Retirement System approve of the person's participation in the plan;

(2) The member's deferred retirement benefits deposited into an account in which shall be accumulated the member's deferred option contributions plus interest;

(3) The rate of interest to be credited to each member's deferred option account shall be an amount to be determined by the board, to be paid on the mean balance in the account for the fiscal year;

(4) When a member begins participation in the deferred retirement option, the member's contributions and the state's contributions, as employer, to the Arkansas State Highway Employees' Retirement System shall cease;

(5) A member's selection of the deferred retirement option, the time of the retirement deferral, and the selection of the retirement annuity are irrevocable; and

(6) The duration of participation in the deferred retirement shall not exceed five (5) years except under subsection (b) of this section.

(b)(1) The member may participate in the deferred retirement option plan until the later of age sixty-five (65) or the fifth anniversary of the member's entry into the plan.

(2) The member who enters the plan before age sixty (60) may continue to participate in the plan until the member retires or reaches age sixty-five (65).

(3) In order to participate in the plan for a period of longer than five (5) years, the member shall contribute six percent (6%) of his or her gross salary, and the Arkansas State Highway and Transportation

Department shall contribute six and nine-tenths percent (6.9%) of the member's gross salary.

(4) In order to participate in the plan longer than five (5) years, the amount deposited into the member's deferred retirement option plan account shall be cost neutral to the system, and the system's actuary shall determine this amount.

(c) The board may determine any other provisions of the plan, such as the amount of credited service to participate, the method of collections for participants of the plan, and the payment methods in the event of the death of a participant.

History. Acts 1997, No. 1073, § 2; 2003, No. 776, § 1.

CHAPTER 6

STATE POLICE RETIREMENT

SUBCHAPTER

1. GENERAL PROVISIONS.
2. STATE POLICE RETIREMENT SYSTEM.
3. DEFERRED OPTION PLAN.
4. TIER TWO BENEFIT PLAN.
5. ARKANSAS STATE POLICE OFFICERS' TIER TWO DEFERRED RETIREMENT OPTION PLAN.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

24-6-103. No waiver of sovereign immunity.

24-6-104. Credit for service in national

guard and armed forces reserve.

Effective Dates. Acts 2011, No. 38, § 11: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the public retirement systems provide economic security for eligible citizens of Arkansas; that the statutes need amending to update and clarify existing law; and that these changes need to be made immediately. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-6-103. No waiver of sovereign immunity.

Nothing in this chapter shall be taken or interpreted as a waiver of the state's sovereign immunity.

History. Acts 2011, No. 38, § 10.

24-6-104. Credit for service in national guard and armed forces reserve.

(a) As used in this section, "armed forces reserve" means one (1) of the reserve components of the armed forces of the United States.

(b)(1) A member of the State Police Retirement System may purchase credited service in the system for a period not to exceed five (5) years for compensated service rendered by the member in the national guard or in the armed forces reserve if the member:

(A) Makes an application to the Board of Trustees of the State Police Retirement System;

(B) Provides the board with satisfactory proof of that person's service in the national guard or in the armed forces reserve; and

(C) Pays to the member's deposit account an amount equal to the actuarial present value of the credited service applied for under this section based upon assumptions recommended by the system's actuary.

(2) The payment shall be credited to the member's deposit account and is in addition to any regular member contributions.

(c) A member shall receive one (1) year of purchased service credit for every one (1) year of compensated service in the national guard or in the armed forces reserve.

(d) The service in the national guard or in the armed forces reserve shall not become credited service under this system until the member:

(1) Pays for the year of service in the national guard or in the armed forces reserve prior to retirement; and

(2) Has established five (5) or more years of actual service in the system.

(e) If a member ceases to be an active member before the service in the national guard or in the armed forces reserve has been established as system-credited service, the member payments contributed under this section are refundable, together with regular interest.

(f)(1) This section is supplemental to §§ 24-2-502 and 24-6-210, and this section does not diminish the right of any member of the system to obtain credited service in the system for active duty military service within the limits permitted by §§ 24-2-502 and 24-6-210.

(2) However, a member is not entitled to receive more than five (5) years of credited service rendered by the member under this section.

(3) A member is not eligible to purchase service credit in more than one (1) retirement system, whether federally or state-supported, for service in the national guard or in the armed forces reserve.

(4) Service credit in the system for active duty military service under §§ 24-2-502 and 24-6-210 and for service in the national guard or in the armed forces reserve shall not be given for the same period of time.

(5) A member's service in the national guard or in the armed forces reserve shall not make the member eligible for any kind of benefit under any other state-supported retirement system except social security.

History. Acts 2011, No. 562, § 1.

SUBCHAPTER 2 — STATE POLICE RETIREMENT SYSTEM

SECTION.

- 24-6-201. Definitions.
- 24-6-202. Penalty.
- 24-6-204. Board of trustees.
- 24-6-208. Members' contributions.
- 24-6-209. Employer's contribution.
- 24-6-210. Credited service.
- 24-6-212. Eligibility for benefits — Voluntary retirement for contributory members.
- 24-6-213. Eligibility for benefits — Disability retirement.
- 24-6-214. Benefits generally — Contributory member.

SECTION.

- 24-6-216. Benefits — Survivor's pension upon death of retiree.
- 24-6-217. Benefits — Survivor's pension upon death of member.
- 24-6-225. Applicability of benefit provisions.
- 24-6-226. Eligibility for benefits — Voluntary retirement for Tier I noncontributory members.
- 24-6-227. Benefits generally — Tier I noncontributory member.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 68, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the State Police Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this

act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 69, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the State Police Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 1023, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the State Police Retirement System that this act should become effective on July 1, 2005. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 404, § 5: Mar. 22, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the benefits of certain members of the State Police Retirement System and that this act should become effective im-

mediately to allow members of the system to properly plan their retirement and to allow the system appropriate time to implement the provisions of the act. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1242, § 6: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Department of Arkansas State Police has had

ongoing financial difficulty for over twelve (12) years; that the State Police Retirement System has sustained investment losses of approximately one hundred million dollars (\$100,000,000) within the last two (2) years; that a larger investment pool is needed to help reduce risk and enhance returns; that the Arkansas Public Employees' Retirement System has the size and expertise to effectively reduce the volatility of returns, enhance relative returns, and best protect the State Police Retirement System; and that this act is immediately necessary to protect the members and beneficiaries of the State Police Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

24-6-201. Definitions.

As used in this subchapter:

(1) "Accumulated contributions" means the sum of all amounts deducted from the salaries of a member and credited to his or her individual account in the members' deposit account, together with regular interest credited thereon;

(2) "Beneficiary" means any person, except a retirant, who is in receipt of, or who is entitled to receive, a pension or other benefit payable from funds of the State Police Retirement System;

(3) "Board" means the Board of Trustees of the State Police Retirement System;

(4) "Contributory member" means a state police officer who was a member of the system prior to January 1, 1978, and who continues to contribute six percent (6%) of his or her compensation to the system;

(5) "Credited service" means the service credited a member by the board to the extent provided in this subchapter;

(6) "Department" means the Department of Arkansas State Police;

(7) "Director" means the Director of the Department of Arkansas State Police;

(8)(A) "Final average compensation" for contributory service means the average of the annual salaries paid a member for the three (3) years of credited service rendered by the member immediately preceding his or her last termination of employment with the department, but the final average compensation shall not exceed that of the highest permanent rank.

(B)(i) "Final average compensation" for Tier I noncontributory service means the average of the highest annual compensation paid

a member during any period of sixty (60) calendar months of credited service with the Department of Arkansas State Police.

(ii) Should a member have less than sixty (60) calendar months of credited service, "final average compensation" means the monthly average paid to the member during his or her total years of credited service;

(9) "Member" means any state police officer who is included in the membership of the system;

(10) "Noncontributory member" means a state police officer who does not contribute a portion of his or her compensation to the system;

(11)(A) "Pension" means an annual amount payable from funds of the system throughout the life of a person.

(B) All pensions shall be paid in equal monthly installments;

(12) "Pension reserve" means the present value of a pension computed upon the basis of such mortality and other tables of experience, and regular interest, as the board, from time to time, may adopt;

(13)(A) "Public safety member" means a state police officer in the State Police Retirement System who is a Tier I noncontributory member.

(B) Employment as a public safety member shall be credited at one and one-half (1 ½) times the regular rate for crediting service;

(14) "Regular interest" means such rates of interest per annum, compounded annually, as the board, from time to time, shall prescribe;

(15) "Retirant" means any member who retires with a pension payable from funds of the system;

(16) "Retirement" means a member's withdrawal from the employ of the department with a pension payable from funds of the system;

(17)(A) "Salary" means the compensation paid a member for service rendered as a state police officer.

(B) In no case shall the term "salary" include reimbursement for lodging, meals, or travel expenses;

(18) "Service" means service rendered to the department by a state police officer and shall include previous service, if any, rendered as an Arkansas state ranger;

(19)(A) "State police officer" means any employee of the Department of Arkansas State Police who holds the rank of state trooper or higher rank, and it shall include the director.

(B) The term "state police officer" shall not include any civilian employee of the department, nor shall it include any person who is temporarily employed as a state trooper for an emergency.

(C) In any case of doubt as to who is a "state police officer", the board shall decide the question;

(20) "System" means the State Police Retirement System;

(21) "Tier I" refers to covered employment for those first hired on or before April 2, 1997, as provided for in § 24-6-201 et seq.; and

(22) "Tier II" refers to covered employment for those first hired on or after April 3, 1997, as provided for in § 24-6-401 et seq.

History. Acts 1951, No. 311, § 1; 1959, No. 484, § 1; 1973, No. 441, § 1; A.S.A. 1947, § 42-451; Acts 2001, No. 151, § 54.

24-6-202. Penalty.

(a) Any person who knowingly makes any false statements or who falsifies or permits to be falsified any records of the State Police Retirement System or the Department of Arkansas State Police in an attempt to defraud the system as the result of that act shall be guilty of a misdemeanor.

(b) Upon conviction by a court, that person shall be guilty of a Class A misdemeanor.

History. Acts 1951, No. 311, § 8; 1959, No. 484, § 8; A.S.A. 1947, § 42-458; Acts 2005, No. 1994, § 364.

24-6-204. Board of trustees.

(a)(1) The Board of Trustees of the State Police Retirement System is created.

(2)(A) The board shall consist of seven (7) trustees, as follows:

(i) One (1) active member enrolled in the Tier I benefits program;

(ii) One (1) active vested member enrolled in the Tier II benefits program;

(iii) One (1) state police commissioner who shall be appointed by the Governor;

(iv) The Chief Fiscal Officer of the State or his or her designee; and

(v)(a) Three (3) citizens at large who shall be appointed by the Governor.

(b) The citizens at large shall have no interest, direct or indirect, in the Department of Arkansas State Police.

(B) The elections of member trustees shall be held under rules as the board shall from time to time adopt to govern the elections.

(C) The regular term of office of a member trustee shall be seven (7) years.

(D) The elections of the board's officer members shall be held under rules as the board shall from time to time adopt to govern elections.

(E) At the board's first regular meeting following July 1, 2009, the members who are on the board shall draw lots to determine the length of terms.

(F) The terms shall be staggered in the following manner:

(i) One (1) member's term shall expire July 1, 2010;

(ii) One (1) member's term shall expire July 1, 2011;

(iii) One (1) member's term shall expire July 1, 2012;

(iv) One (1) member's term shall expire July 1, 2013;

(v) One (1) member's term shall expire July 1, 2014;

(vi) One (1) member's term shall expire July 1, 2015; and

(vii) One (1) member's term shall expire July 1, 2016.

(b)(1) In the event any trustee provided for in subsection (a) of this section:

(A) Ceases to be a state police officer; or

(B) Fails to attend scheduled meetings of the board for three (3) consecutive meetings unless, in each case, he or she is excused by the remaining trustees attending the meetings, the board by resolution shall declare his or her office of trustee vacated as of the date of adoption of the resolution.

(2) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(c)(1) The administration, management, and control of the State Police Retirement System shall be vested in the board.

(2)(A) The executive director and administrative staff of the Arkansas Public Employees' Retirement System shall be the executive secretary and the administrative staff of the State Police Retirement System.

(B) All administrative records of the State Police Retirement System shall be maintained within the administrative offices of the Arkansas Public Employees' Retirement System.

(3)(A) The executive secretary shall be the disbursing agent of all appropriations made by the General Assembly out of the State Police Retirement Fund.

(B) The executive secretary shall furnish and file with the Auditor of State a bond with a corporate guaranty or indemnity surety thereon in the penal sum of two thousand dollars (\$2,000), the premium on which shall be paid from appropriations made available to the Department of Arkansas State Police.

(d) The Attorney General shall serve as legal advisor to the board.

(e)(1) The board shall hold meetings regularly, at least one (1) in each quarter year, and shall designate the time and place of the meetings.

(2) Special meetings may be held in accordance with rules as the board shall adopt.

(3) Four (4) board members, including one (1) officer member, shall constitute a quorum at any meeting of the board, and at least four (4) concurring votes shall be necessary for a decision by the board at any of its meetings.

(4) The board shall adopt its own rules or procedures and shall keep a record of its proceedings, which shall be open to public inspection.

(f) In addition to other duties that are imposed upon the board by this subchapter, the board shall:

(1) Make all rules and regulations from time to time as it shall deem necessary in the transaction of its business and in administering the system;

(2) Provide for the administrative direction and control of the Executive Secretary in the performance of his or her duties as Executive Secretary of the State Police Retirement System;

(3) Provide for an actuarial valuation of the assets and liabilities of the State Police Retirement System or the retirement reserve account at least one (1) time in each four-year period from and after December 31, 1958;

(4) Adopt mortality and other tables of experience and rates of regular interest that are required for the proper operation of the State Police Retirement System;

(5) Perform the duties of trustee without additional compensation. However, trustees may receive expense reimbursement in accordance with § 25-16-901 et seq.; and

(6)(A) Do all things necessary for the proper administration of the State Police Retirement System and for carrying out and making effective the provisions of this subchapter.

(B) However, no recommendations for benefit enhancements shall be made that would cause the actuarially accrued unfunded liabilities of the State Police Retirement System to exceed thirty (30) years.

History. Acts 1951, No. 311, §§ 2, 9; 1959, No. 484, § 2; 1969, No. 647, § 1; A.S.A. 1947, §§ 42-452, 42-452.1, 42-459; Acts 1989, No. 23, § 1; 1989, No. 529, § 4[5]; 1997, No. 250, § 230; 2005, No. 68, § 1; 2007, No. 404, § 1; 2009, No. 1242, § 3.

A.C.R.C. Notes. Acts 2009, No. 1242, § 1, provided: "Legislative history, findings, and intent.

"(a) It is found and determined by the General Assembly that the Department of Arkansas State Police has had ongoing financial difficulty for over twelve (12) years. The State Police Retirement System has sustained investment losses of approximately one hundred million dollars (\$100,000,000) within the last two (2) years, and so needs a larger investment pool to help reduce risk and enhance returns. The Arkansas Public Employees' Retirement System has the size and expertise to effectively reduce the volatility of returns, enhance relative returns, and best protect the State Police Retirement System.

"(b) This act represents a negotiated alternative to a proposal that would have eliminated the State Police Retirement System and would have made it a division of the Arkansas Public Employees' Retirement System.

"(c) This act maintains the autonomy over State Police Retirement System benefits but ensures funds are invested in a larger, more diversified pool of assets.

"(d) It is contemplated that at such time as the State Police Retirement System

attains a funding level in which assets are eighty percent (80%) or more of actuarially accrued liabilities, the Board of Trustees of the State Police Retirement System may consider certain enhancements to the Tier II Deferred Retirement Option Plan."

Amendments. The 2007 amendment deleted "and established" following "created" in (a)(1); in (a)(2)(A), substituted "The board" for "It" and substituted "twelve (12)" for "eleven (11)"; deleted "the provisions of" following "under" in (a)(2)(A)(iv); added (a)(2)(A)(vi) and redesignated the remaining subdivision accordingly; substituted "Chair" for "chair" in (a)(2)(A)(vii); in (a)(2)(B), deleted "such" preceding "rules" and deleted "and regulations" following "rules"; deleted "Arkansas" preceding "State" in (c)(2)(B); in (g)(2), deleted "such" preceding "rules" and deleted "and regulations" following "rules"; in (h), deleted "such" preceding "other" and substituted "that" for "as"; substituted "that are" for "as shall be" in (h)(4); and deleted "therefor" following "compensation" in (h)(6).

The 2009 amendment rewrote (a)(2); substituted "subsection (a)" for "subdivisions (a)(2)(A)(iv) and (v)" in (b)(1); deleted (d) and (e) and redesignated the subsequent subsections accordingly; in (e)(1), substituted "Four (4) board members, including one (1) officer member" for "Five (5) voting trustees" and substituted "at least four (4)" for "at least five (5)"; deleted (f)(5), inserted present (f)(6)(B), and redesignated the remaining subdivi-

sions accordingly; and made minor stylistic changes.

24-6-205. Correction of errors.

CASE NOTES

Sovereign Immunity.

Police officers brought a suit against state, asking for a writ of mandamus and declaratory judgment with respect to the funding of the Arkansas State Police Retirement System. The class action suit

was not barred by sovereign immunity because this section specifically provided for a waiver of immunity when an error was made in payment calculations. *Weiss v. McLemore*, 371 Ark. 538, 268 S.W.3d 897 (2007).

24-6-208. Members' contributions.

(a)(1)(A) The contributions of a contributory member to the State Police Retirement System covered by the contributory provisions shall be nine and one-fourth percent (9.25%) of the member's salary.

(B) However, no member may be required to pay more than nine and one-fourth percent (9.25%) of the salary of the highest permanent rank in the Department of Arkansas State Police.

(2) The officers responsible for making up the payroll shall cause the contributions provided for in this section to be deducted from the salaries of each member on each and every payroll, for each and every payroll period, from the date of his or her entrance into the system to the date his or her membership terminates.

(3) When deducted, each of the amounts shall be paid into the State Police Retirement Fund and shall be credited to each member's individual account in the members' deposit account.

(4) The contributions provided for in this section shall be made notwithstanding that the minimum salary provided by law for any member shall be thereby changed.

(5) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(6) Payment of his or her salary less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered to the department by the member, except as to benefits provided by this subchapter.

(b) It is expressly guaranteed that all members' contributions shall be held in trust for the exclusive benefit of the individual members and that no part of the funds shall be used for any other purpose.

History. Acts 1951, No. 311, § 3; 1959, No. 484, § 3; 1969, No. 646, § 1; 1973, No. 441, §§ 2, 3; 1974 (Ex. Sess.), No. 93, § 8; 1977, No. 460, § 3; A.S.A. 1947, §§ 42-453, 42-453.1; Acts 2001, No. 151, § 55.

24-6-209. Employer's contribution.

(a) The Department of Arkansas State Police, as employer, shall make contributions to the State Police Retirement System of twenty-two percent (22%) of active member payroll.

(b)(1) At the request of the Executive Secretary of the State Police Retirement System, the Director of the Department of Finance and Administration shall make annual transfers on each June 30 to the system from the remainder of insurance premium taxes enumerated in § 19-6-301(27) before those taxes are transferred to general revenues enumerated in § 19-6-201(19) the amounts of money necessary to amortize the unfunded liabilities over a period not to exceed thirty (30) years.

(2) These transfers are intended to cover the unfunded accrued actuarial liabilities of the system and shall not be used for the purpose of providing any benefit enhancements for the system.

(3) Members of the system shall not be entitled to any benefit enhancements from these transfers unless funds from sources other than insurance premium taxes are found to provide for the retirement benefit enhancements.

(4) The amount of the transfer shall be determined by computing the dollar amount required based on the actuarially determined employer rate in the most recent annual actuarial valuation and subtracting from that amount the statutory contribution amount specified in subsection (a) of this section and the driver's license reinstatement fees provided by § 27-16-808.

(5) These transfers shall be limited in use solely for the purpose of paying the unfunded accrued actuarial liabilities.

(6) If the transfers under this section exceed eight hundred thousand dollars (\$800,000) per fiscal year, the executive secretary shall notify the Joint Interim Committee on Public Retirement and Social Security Programs, which shall then review the use of the funds and the benefit provisions of the system and the actuarial reports on the system to ensure compliance with the intended purpose of the funds.

History. Acts 1951, No. 311, § 3; 1959, No. 484, § 3; 1969, No. 646, § 1; 1973, No. 441, § 2; 1974 (Ex. Sess.), No. 93, § 8; 1977, No. 460, § 3; A.S.A. 1947, §§ 42-453, 42-453.1; Acts 1997, No. 1071, § 3; 2001, No. 151, § 56; 2005, No. 1023, § 1; 2007, No. 404, § 2; 2009, No. 654, § 1.

Amendments. The 2007 amendment deleted "for those members not covered by the provisions of § 24-6-401 et seq." following "years" and made a minor stylistic change in (b)(1); deleted "Tier One" preceding "State" in (b)(3); deleted "the court

fees provided by Acts 1995, No. 1256" and made minor punctuation changes in (b)(4); deleted (c)(1); redesignated former (c)(2) and (c)(3) as present (b)(5) and (b)(6); and in (b)(5), substituted "the unfunded accrued actuarial" for "those" and deleted "and nothing more" following "liabilities."

The 2009 amendment, in (b)(6), substituted "system" for "systems" following "provisions of the," and for "retirement systems" following "reports on," and made minor stylistic and punctuation changes.

24-6-210. Credited service.

(a)(1) Any member who shall become separated from the employ of the Department of Arkansas State Police by reason of service in the armed forces of the United States shall have the service, not to exceed a total of five (5) years, credited to him or her as department service, but only if he or she returns to the employ of the department within one hundred eighty (180) days from and after termination of the armed service required of him or her and if he or she returns to the members' deposit account the amount of his or her accumulated contributions withdrawn by him or her, together with regular interest from the date of withdrawal to the date of repayment.

(2) In any case of doubt as to the period to be so credited any member, the Board of Trustees of the State Police Retirement System shall have the final power to determine the period.

(3) During the period of armed service and until his or her return to the employ of the department, his or her contributions to the members' deposit account shall be suspended, and his or her balance in the account shall be accumulated at regular interest.

(4) The federal service so credited a member shall be excluded in computing his or her final average compensation.

(b)(1) The board shall determine by appropriate rules and regulations the amount of service to be credited any member.

(2) In no case shall less than fifteen (15) days of service rendered in any calendar month be credited as a month of service, nor shall less than ten (10) months of service rendered in any calendar year be credited as a year of service, nor shall more than one (1) year of service be credited any member for all service rendered by him or her in any calendar year.

(c)(1) Except as otherwise provided in this subchapter, should any member leave the employ of the department for any reason except his or her retirement as provided in this subchapter or his or her death, he or she shall thereupon cease to be a member, and his or her credited service at that time shall be forfeited by him or her.

(2) In the event he or she again becomes employed in the department as a state police officer, he or she shall again become a member of the system.

(3)(A) In the event his or her reemployment occurs within a period of five (5) years from and after the date he or she last left the employ of the department, his or her credited service last forfeited by him or her shall be restored to his or her credit, but only if he or she returns to the members' deposit account the amounts he or she may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(B) Repayment shall be made according to such rules and regulations as the board shall adopt from time to time.

(4) Except as otherwise provided in this subchapter, should a person return to the employment of the department after the expiration of a

period of five (5) years from and after the date of his or her employment with the department last terminated, he or she shall not have his or her credited service last forfeited by him or her restored to his or her credit.

(5) Upon a member's retirement or death, he or she shall cease to be a member.

History. Acts 1951, No. 311, § 6; 1953, 484, § 6; A.S.A. 1947, § 42-456; Acts No. 309, § 2; 1957, No. 308, § 2; 1959, No. 2001, No. 151, § 57.

24-6-212. Eligibility for benefits — Voluntary retirement for contributory members.

(a)(1) Any contributory member who has acquired twenty (20) or more years of credited service or any contributory member who has attained age fifty (50) and has acquired five (5) or more years of actual service may voluntarily retire upon written application filed with the Board of Trustees of the State Police Retirement System.

(2) This application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, he or she desires to be retired.

(b) Upon his or her retirement, he or she shall receive a pension provided for in § 24-6-214.

History. Acts 1951, No. 311, § 5; 1953, § 42-455; Acts 1997, No. 1053, § 19; 2001, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; 1971, No. 309, § 1; A.S.A. 1947, No. 151, § 58.

24-6-213. Eligibility for benefits — Disability retirement.

(a)(1)(A) Upon application filed with the Board of Trustees of the State Police Retirement System by a member or by the Director of the Department of Arkansas State Police on behalf of a member, a member who is in the employ of the Department of Arkansas State Police, who has five (5) or more years of actual service, and who becomes totally and permanently incapacitated for duty in the employ of the department by reason of a personal injury or disease may be retired by the Board of Trustees of the State Police Retirement System, but only after a medical examination of the member.

(B) The examination shall be made by or under the direction of a board of medical professionals as defined in the rules of the Board of Trustees of the State Police Retirement System, using the active duty criteria supplied by the Department of Arkansas State Police in determining the extent of the disability.

(2) The five (5) years of service requirement contained in this subsection shall not apply to a member whom the Board of Trustees of the State Police Retirement System finds to be in receipt of workers' compensation for his or her disability arising solely and exclusively out of and in the course of his or her employment with the department.

(b)(1) Upon his or her retirement on account of disability as provided in subsection (a) of this section, a member shall receive a disability

pension computed according to the contributory provisions of § 24-6-214 or the noncontributory provisions of § 24-6-227, as applicable.

(2) However, a member's disability pension shall not be less than twenty percent (20%) of his or her final average compensation and shall be subject to subsections (c)-(e) of this section.

(c)(1) At least one (1) time each year during the first five (5) years following a member's retirement on account of disability and at least one (1) time in every three-year period thereafter, the Board of Trustees of the State Police Retirement System may and upon the retirant's application shall require any disability retirant who has not attained fifty (50) years of age to undergo a medical examination to be made by or under the direction of the medical professionals designated by the Board of Trustees of the State Police Retirement System.

(2) If the retirant refuses to submit to a medical examination in any such period, his or her disability pension may be suspended by the Board of Trustees of the State Police Retirement System until his or her withdrawal of his or her refusal.

(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability pension may be revoked by the Board of Trustees of the State Police Retirement System.

(4) If upon the medical examination of the retirant the medical professionals designated by the Board of Trustees of the State Police Retirement System report to the Board of Trustees of the State Police Retirement System that the retirant is physically capable of performing the duties of the rank held by him or her at the time of his or her retirement, the retirant shall be returned to the employ of the department, and his or her disability pension shall be terminated.

(d)(1) Upon a disability retirant's return to the employ of the department as provided in subsection (c) of this section, his or her credited service at the time of his or her retirement shall be restored to his or her credit.

(2) He or she shall be given service credit for the period he or she was receiving a disability pension if, within that period, he or she was in receipt of workers' compensation on account of his or her department employment.

(e) In the event a disability retirant who has not attained age fifty (50) performs personal services in an occupation, business, or employment, his or her disability pension shall be reduced so that the sum of his or her disability pension and the compensation received by him or her from the occupation, business, or employment shall not exceed his or her annual rate of salary at the time of his or her retirement.

History. Acts 1951, No. 311, § 5; 1953, 1947, § 42-455; Acts 1997, No. 1053, § 20; No. 309, § 1; 1957, No. 308, § 1; 1959, No. 2001, No. 151, § 59; 2005, No. 69, § 1. 484, § 5; 1971, No. 309, §§ 4, 5; A.S.A.

24-6-214. Benefits generally — Contributory member.

(a) Upon his or her retirement as provided in this subchapter, a member shall receive a straight life pension equal to the following sum: Two and nine hundred forty-nine thousandths percent (2.949%) of his or her final average compensation multiplied by the number of years, and any fraction of a year, of his or her credited service not to exceed twenty (20) years, plus the sum of two and three hundred fifty-nine thousandths percent (2.359%) of his or her final average compensation multiplied by the number of years, and any fraction of a year, of his or her credited service in excess of twenty (20) years but not in excess of twenty-five (25) years, plus one and eighteen hundredths percent (1.18%) of his or her final average compensation multiplied by the number of years, and any fraction of a year, of his or her credited service in excess of twenty-five (25) years but not in excess of thirty (30) years.

(b)(1) In the event a member who has acquired twenty (20) years or more of credited service retires prior to attainment of age fifty (50), as provided in this subchapter, his or her pension, as provided for in subsection (a) of this section, shall be reduced one-half percent (0.5%) multiplied by the number of completed months in the period from the date he or she requests his or her pension to begin to the date he or she would have attained age fifty (50).

(2) In the event a member with five (5) years or more of credited service in the State Police Retirement System ceases to be employed as a state police officer prior to reaching fifty (50) years of age and does not withdraw his or her accumulated employee contributions to the system, the member shall be entitled to receive a pension upon reaching fifty (50) years of age, computed in the same manner as the pension of other retirants under the system.

(3) Any member may elect to withdraw his or her accumulated contributions to the system at the time of terminating employment as a state police officer and to waive any pension rights the member may have earned in the system.

History. Acts 1951, No. 311, § 5; 1953, § 42-455; Acts 1991, No. 225, § 1; 1997, No. 309, § 1; 1957, No. 308, § 1; 1971, No. No. 1053, § 21; 2001, No. 151, § 60. 309, § 3; 1977, No. 460, § 1; A.S.A. 1947,

24-6-216. Benefits — Survivor's pension upon death of retirant.

(a)(1) In the event a retirant dies and leaves a spouse to whom the retirant was married, the surviving spouse shall receive a pension equal to seventy-five percent (75%) of the retirant's pension, but only if the spouse has under care the retirant's dependent children whose dates of birth are prior to the retirant's date of retirement.

(2) When the spouse no longer has under care such a dependent child, the pension shall be reduced to fifty percent (50%) of the retirant's pension.

(3) Upon the spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(b)(1) In the event a retirant dies and leaves a spouse to whom he or she was married and who does not have under care the retirant's dependent children, the surviving spouse shall receive a pension equal to fifty percent (50%) of the retirant's pension.

(2) Upon the spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(c)(1) In the event a retirant dies and does not leave a spouse eligible for a pension as provided for in this section, or in the event the surviving spouse dies or remarries and the pension provided for in subsection (a) of this section is terminated, and there is surviving the retirant a dependent child, or children, each such child shall receive a pension of an equal share of seventy-five percent (75%) of the retirant's pension.

(2) In no case shall the pension payable to any such child exceed twenty-five percent (25%) of the retirant's pension.

(d)(1)(A) A child shall be a dependent child until his or her death, his or her marriage, or his or her attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child is continuously enrolled as a full-time student at an accredited secondary school or accredited postsecondary institution of higher education, but in no event beyond his or her attainment of age twenty-three (23).

(ii) The eighteen-year maximum shall also be extended for any child who has been deemed physically or mentally incompetent by a court with jurisdiction over the individual or by the Board of Trustees of the State Police Retirement System, for as long as the incompetency exists.

(2) Once a child ceases to be dependent, his or her annuity shall terminate and there shall be a redetermination of the amount payable to any remaining dependent children.

(3) The board is authorized to establish through rules and regulations a means of verification of enrollment in a secondary school or postsecondary institution of higher education by a surviving dependent child under this section for purposes of pension benefits.

(e)(1) If a surviving spouse who is receiving survivor's benefits under this section remarries, and the benefits are discontinued, and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(2) Benefits shall be resumed for any surviving spouse who had remarried but is unmarried on that date, but no such benefits will be paid the surviving spouse for any period prior to July 1, 1991.

(f) Before the date his or her first annuity payment becomes due, but not thereafter, a noncontributory Tier I member may elect to:

(1) Receive his or her annuity as a straight life annuity; or

(2)(A) Have his or her annuity reduced and nominate a beneficiary in accordance with the option provisions of § 24-6-408.

(B) However, in the instance of Option B75 under § 24-6-408(a)(4), the reduced annuity shall be seventy-eight percent (78%) if the

retirant's age and his or her beneficiary's age are the same on the first payment due date. The reduced annuity of seventy-eight percent (78%) shall be:

(i) Decreased by three-quarters of one percent (0.75%) for each year the beneficiary's age is less than the retirant's age; or

(ii) Increased by three-quarters of one percent (0.75%), up to a maximum of ninety percent (90%), for each year that the beneficiary's age is more than the retirant's age.

History. Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; 1977, No. 403, § 1; 1981, No. 909, § 8; A.S.A. 1947, § 42-455; Acts 1989, No. 529, § 1; 1991, No. 387, § 1;

1995, No. 731, § 1; 2001, No. 151, § 61; 2009, No. 742, § 3.

Amendments. The 2009 amendment redesignated (f), added (f)(2)(B), and made related and minor stylistic changes.

CASE NOTES

Applicability.

Given that the term "full-time student" is not defined in § 11-27-527(d)(2), but (1) subdivision (d)(B)(i) of this section and § 24-6-217(e)(1)(B)(i) refer to a child's benefits terminating at age 18 but extending until age 23 as long as the child is continuously enrolled as a full-time student, (2) §§ 24-6-411(d)(3)(B)(i) and 24-6-608 refer to a child being eligible as long as the child continues uninterrupted from being a full-time student, and (3) § 6-82-202(7) defines full-time student for purposes of the state scholarship pro-

gram, had the legislature intended to restrict the definition of full-time student in § 11-27-527, it could have done so, and in light of the purpose under § 11-9-101(b) and the strict construction of workers' compensation laws under § 11-9-704(c)(3), the court will not read into the statute the restriction that the term "full-time student" is defined by each individual student's college handbook or catalog. *Death & Permanent Disability Trust Fund v. Anderson*, 83 Ark. App. 230, 125 S.W.3d 819 (2003).

24-6-217. Benefits — Survivor's pension upon death of member.

(a)(1) In the case of a member who dies on or after January 1, 1956, and leaves a spouse who has the care of the member's dependent child or children, the surviving spouse shall receive a pension equal to the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, notwithstanding that the member might not have been eligible to retire.

(2) When the surviving spouse no longer has the care of the dependent child, the pension shall be reduced to the greater of one thousand two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, notwithstanding that the member might not have been eligible to retire.

(3) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(b)(1) In the case of a member who dies on or after January 1, 1956, and leaves a spouse who does not have in his or her care the member's dependent child or children, the surviving spouse shall receive a

pension equal to the greater of one thousand two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, notwithstanding that the member might not have been eligible to retire.

(2) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(c)(1) In the event a member dies and does not leave a spouse, or in the event the surviving spouse remarries or dies and there is surviving the member a dependent child or children, each such child shall receive a pension of an equal share of the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, notwithstanding that he or she might not have been eligible to retire.

(2) In no case shall the annual pension payable to any such child exceed fifteen percent (15%) of the final average annual salary of the deceased member.

(d)(1) In the event a member who has five (5) or more years of credited service dies and leaves neither a spouse nor children eligible for pensions provided for in subsections (a)-(c) of this section, and there is surviving the member his or her parents, whom the board finds to be dependent upon the member for at least fifty percent (50%) of their support due to lack of financial means, each dependent parent shall receive a pension of an equal share of fifty percent (50%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, notwithstanding that the member might not have been eligible to retire.

(2) Upon the remarriage or death of the parent, his or her pension shall terminate.

(e)(1)(A) A child shall be a dependent child until his or her death, his or her marriage, or his or her attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child is continuously enrolled as a full-time student at an accredited secondary school or accredited postsecondary institution of higher education, but in no event beyond his or her attainment of age twenty-three (23).

(ii) The eighteen-year maximum shall also be extended for any child who has been deemed physically or mentally incompetent by a court with jurisdiction over the individual or by the board, for as long as the incompetency exists.

(2) Once a child ceases to be dependent, his or her annuity shall terminate and there shall be a redetermination of the amount payable to any remaining dependent children.

(3) The board is authorized to establish through rules and regulations a means of verification of enrollment in a secondary school or postsecondary institution of higher education by a surviving dependent child under this section for purposes of pension benefits.

(f)(1) If a surviving spouse who is receiving survivor's benefits under this section remarries, and the benefits are discontinued, and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(2) Benefits shall be resumed for any surviving spouse who had remarried but is unmarried on that date, but no such benefits will be paid the surviving spouse for any period prior to July 1, 1991.

(g)(1) If the member is killed while in the official line of duty and the surviving spouse is eligible for a deferred benefit under this section, the surviving spouse may elect to receive a reduced benefit beginning immediately.

(2) The reduction of the benefit otherwise defined in this section shall be:

(A) Five-tenths of one percent (0.5%) per month for each of the first sixty (60) months that the benefit begins before it would have otherwise begun; plus

(B) Twenty-five hundredths of one percent (0.25%) per month for each month more than sixty (60) months that the benefit begins before it would have otherwise begun.

(3) However, the total reduction under this subsection shall not be more than fifty percent (50%).

(4) Those who otherwise would have been eligible for this benefit on or after July 1, 2002, may also elect this reduced benefit prospectively.

History. Acts 1951, No. 311, § 5; 1953, 909, § 8; A.S.A. 1947, § 42-455; Acts No. 309, § 1; 1957, No. 308, § 1; 1959, No. 1989, No. 529, § 2; 1991, No. 387, § 2; 484, § 5; 1971, No. 130, §§ 1, 2; 1981, No. 2003, No. 1735, § 2.

CASE NOTES

Applicability.

Given that the term "full-time student" is not defined in § 11-27-527(d)(2), but (1) § 24-6-216(d)(B)(i) and subdivision (e)(1)(B)(i) of this section refer to a child's benefits terminating at age 18 but extending until age 23 as long as the child is continuously enrolled as a full-time student, (2) §§ 24-6-411(d)(3)(B)(i) and 24-4-608 refer to a child being eligible as long as the child continues uninterrupted from being a full-time student, and (3) § 6-82-202(7) defines full-time student for purposes of the state scholarship pro-

gram, had the legislature intended to restrict the definition of full-time student in § 11-27-527, it could have done so, and in light of the purpose under § 11-9-101(b) and the strict construction of workers' compensation laws under § 11-9-704(c)(3), the court will not read into the statute the restriction that the term "full-time student" is defined by each individual student's college handbook or catalog. *Death & Permanent Disability Trust Fund v. Anderson*, 83 Ark. App. 230, 125 S.W.3d 819 (2003).

24-6-225. Applicability of benefit provisions.

(a)(1) The noncontributory benefit provisions of this chapter shall be applicable to each person who has never been a member of the State Police Retirement System before January 1, 1978, and who is employed before April 3, 1997, in a position covered by the system and who thereby becomes a member.

(2)(A)(i) Each other person who was a member before January 1, 1978, but who was not actively employed in a position covered by the system on January 1, 1978, shall become covered by the noncontributory benefit provisions of this chapter at the time the person first becomes so employed after January 1, 1978, unless he or she elects to become covered by the provisions of the system which require member contributions. The election must be in writing and received by the governing body of the system before the later of January 1, 1986, and six (6) months after he or she first becomes so employed after January 1, 1978.

(ii) If the member so elects benefits requiring member contributions, he or she shall pay the member contributions from the date of the employment, together with regular interest, from the dates the contributions would normally have been received by the system to the dates of actual payment.

(B)(i) The benefits of each member's becoming covered by the noncontributory benefit provisions of this chapter shall be computed by applying the benefit provisions prescribed by this subchapter for all credited service of the person rendered before and after January 1, 1978.

(ii) Benefit amounts based upon employment before January 1, 1978, shall not be less than benefit amounts computed in accordance with the system benefit provisions at the time of retirement which require member contributions.

History. Acts 2001, No. 151, § 62.

24-6-226. Eligibility for benefits — Voluntary retirement for Tier I noncontributory members.

(a)(1) Any member who has acquired five (5) years but less than thirty (30) years of actual service and has attained age sixty-five (65) may retire upon written application filed with the Board of Trustees of the State Police Retirement System.

(2) Any member who has acquired five (5) or more years of actual service and has attained age fifty-two (52) may retire upon written application filed with the State Police Retirement System.

(3) Any member who acquired thirty (30) or more years of actual service may retire at any age upon written application filed with the board.

(4) For those members with less than thirty (30) actual years of service, the age sixty-five (65) requirement shall be reduced by one (1) month for every two (2) months of public safety credit, but in no event to an age younger than fifty-two (52).

(b) This application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, the member desires to be retired.

(c) Upon the member's retirement, he or she shall receive a pension provided for in § 24-6-216.

History. Acts 2001, No. 151, § 62.

24-6-227. Benefits generally — Tier I noncontributory member.

(a)(1) Upon retirement as provided in this subchapter, a member shall receive a straight life pension equal to one and fifty-five hundredths percent (1.55%) of his or her final average compensation multiplied by the number of years and any fraction of a year of his or her credited service.

(2)(A) In addition, if a member has service resulting from employment in a position covered at any time by Social Security or another federal retirement plan supported wholly or in part by employer contributions, and if that member's age at retirement is younger than:

(i) Social Security's minimum age for an immediate retirement benefit; and

(ii) Age sixty-two (62),

then the member shall receive a temporary annuity equal to three hundred and twenty-two thousandths percent (.322%) of the member's final average compensation for each year of his or her credited service.

(B) The temporary annuity shall terminate at the end of the calendar month in which the earliest of the following events occurs:

(i) The member's death;

(ii) The member's attainment of the Social Security minimum age for an immediate monthly benefit; or

(iii) The member's attainment of age sixty-two (62).

(b) In the event a member with five (5) years or more of actual service in the State Police Retirement System ceases to be employed as a state police officer prior to reaching the required age for voluntary retirement and does not withdraw his or her accumulated employee contributions to the system, the member shall be entitled to receive a pension upon reaching what his or her voluntary retirement age would have been if he or she had continued state police employment from time of termination of employment.

(c) Any member may elect to withdraw his or her accumulated contributions to the system at the time of terminating employment as a state police officer and to waive any pension rights the member may have earned in the system.

(d) It is considered sound public policy that retirement pay not exceed working pay except for increases after retirement caused by inflation. Accordingly, at the time of retirement, the total of the system annuity shall not exceed the member's final average compensation.

History. Acts 2001, No. 151, § 62.

SUBCHAPTER 3 — DEFERRED OPTION PLAN

SECTION.

24-6-301. Election to participate.

24-6-302. Credited service.

SECTION.

24-6-304. Benefits — Rate of return.

24-6-306. Duration.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 1969, § 3: June 1, 2005. Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that due to the events of September 11, 2001, drug infiltration, and rising crime, the State of

Arkansas needs to retain its experienced state police workers; and that this act is immediately necessary because on June 1, 2005, many of these experienced state police workers will retire. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on June 1, 2005."

Acts 2007, No. 404, § 5: Mar. 22, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the benefits of certain members of the State Police Retirement System and that this act should become effective immediately to allow members of the system to properly plan their retirement and to allow the system appropriate time to implement the provisions of the act. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-6-301. Election to participate.

In lieu of terminating employment and accepting a service retirement pension, any state police officer who is a member of Tier I of the State Police Retirement System who has not less than thirty (30) years of credited service and who is eligible to receive a service retirement pension may elect to participate in the Arkansas State Police Officers Deferred Option Plan and defer the receipt of benefits in accordance with the provisions of this subchapter, provided the Board of Trustees of the State Police Retirement System approves the participation in the plan.

History. Acts 1995, No. 967, § 1; 2001, No. 151, § 63.

24-6-302. Credited service.

For purposes of this subchapter, credited service shall include service credit recognized pursuant to § 24-6-201(13).

History. Acts 1995, No. 967, § 1; 2001, No. 151, § 64.

24-6-304. Benefits — Rate of return.

(a) The member's monthly retirement benefit shall not change unless the Arkansas State Police Officers Deferred Option Plan receives a benefit increase.

(b)(1) A member who participates in the plan shall earn interest at a rate set by the Board of Trustees of the State Police Retirement System that shall not be greater than the actuarially assumed investment rate of return for that time.

(2) The interest shall be credited to the individual account balance of the member on an annual basis.

History. Acts 1995, No. 967, § 1; 2005, No. 1024, § 1; 2005, No. 1969, § 2; 2007, No. 404, § 3.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 2005, No. 1969. Subsection (b) of this section was amended by Acts 2005, No. 1024 to read as follows: "(b)(1) A member who begins participation in this plan prior to the effective date of this Act of 2005 shall earn interest at a rate of two (2) percentage points below the rate of return of the investment portfolio of the State Police Retirement System,

but no less than the actuarially assumed interest rate as certified by the actuary.

"(2) A member who first participates in the deferred option plan on or after the effective date of this Act of 2005 shall earn interest equal to the actuarially assumed interest rate only.

"(3) The interest shall be credited to the individual account balance of the member on an annual basis."

Amendments. The 2007 amendment rewrote (b)(1); deleted former (b)(2); and redesignated former (b)(3) as present (b)(2).

24-6-306. Duration.

(a) The duration of participation in the Arkansas State Police Officers Deferred Option Plan for active state police officers shall not exceed seven (7) years.

(b) At the conclusion of a member's participation in the plan, the member shall terminate employment with the Department of Arkansas State Police and shall start receiving the member's accrued monthly retirement benefit from the State Police Retirement System.

History. Acts 1995, No. 967, § 1; 2005, No. 1969, § 1.

SUBCHAPTER 4 — TIER TWO BENEFIT PLAN

SECTION.

24-6-403. Definitions.

24-6-405. Eligibility for benefits — Disability retirement.

SECTION.

24-6-406. Benefits generally.

24-6-411. Benefit provisions — Death.

Effective Dates. Acts 2001, No. 151, § 69: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that this act makes technical corrections to a number of sections of Arkansas Code Title 24; that other legislation of this session of the General Assembly may also amend some of those sections; that this act should become effective immediately so that other legislation may be amended to reflect the technical corrections made by this act and to avoid conflicts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is

overridden, it shall become effective on the date the last house overrides the veto."

Acts 2007, No. 404, § 5: Mar. 22, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the benefits of certain members of the State Police Retirement System and that this act should become effective immediately to allow members of the system to properly plan their retirement and to allow the system appropriate time to implement the provisions of the act. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

24-6-403. Definitions.

As used in this subchapter:

(1) "Accumulated contribution" means the sum of all amounts deducted from the salaries of a member and credited to his or her individual account in the members' deposit account, together with regular interest credited thereon;

(2) "Actual service" means the service credited to a member under this subchapter. Employment in a position covered by this subchapter shall be credited at the rate of one (1) month for each month of employment;

(3) "Actuarial equivalent" means a benefit of equal reserve value where "reserve" means the present value of all payments paid on account of any benefit based upon such reasonable rates of interest and tables of experience as a plan shall adopt from time to time;

(4) “Beneficiary” means any person except a retirant who is in receipt of or who is entitled to receive a pension or other benefit payable from funds of the system;

(5) “Board” means the Board of Trustees of the State Police Retirement System;

(6) “Department” means the Department of Arkansas State Police;

(7) “Director” means the Director of the Department of Arkansas State Police;

(8)(A) “Final average compensation” means the average of the highest annual salaries paid a member during any period of forty-eight (48) calendar months of credited service with a public employer.

(B) Should a member have less than forty-eight (48) calendar months of credited service, “final average compensation” means the average of the annual salaries paid to the member during his or her total years of service;

(9) “Member” means any state police officer who is included in the membership of the system as provided in § 24-6-402;

(10)(A) “Pension” means a monthly amount payable from the funds of the system throughout the life of a person.

(B) All pensions shall be paid in equal monthly installments;

(11) “Pension reserve” means the present value of a pension computed upon the basis of such mortality and other tables of experience, and regular interest as the board, from time to time, shall adopt;

(12) “Regular interest” means such rates of interest per annum compounded annually as the board, from time to time, shall prescribe;

(13) “Retirant” means any member who retires with a pension payable from funds of the system;

(14) “Retirement” means a member’s withdrawal from the employ of the department with a pension payable from the funds of the system;

(15)(A) “Salary” means the compensation paid a member for service rendered as a state police officer.

(B) In no case shall the term “salary” include reimbursement for lodging, meals, or travel expenses;

(16) “Service” means service rendered to the department by a state police officer and shall include previous service, if any, rendered by him or her as an Arkansas state ranger;

(17)(A) “State police officer” means any employee of the Department of Arkansas State Police who holds the rank of state trooper or a higher rank, and it shall include the director.

(B) The term “state police officer” shall not include any civilian employee of the department, nor shall it include any person who is temporarily employed as a state trooper for an emergency.

(C) In any case of doubt as to who is a state police officer, the board shall decide the question; and

(18) “System” means the State Police Retirement System.

24-6-405. Eligibility for benefits — Disability retirement.

(a)(1)(A) Upon application filed with the Board of Trustees of the State Police Retirement System by a member or by the Director of the Department of Arkansas State Police on behalf of a member, a member who is in the employ of the Department of Arkansas State Police, who has five (5) or more years of actual service, and who becomes totally and permanently incapacitated for duty in the employ of the department by reason of personal injury or disease may be retired by the Board of Trustees of the State Police Retirement System, but only after a medical examination of the member.

(B) This examination shall be made by or under the direction of a board of medical professionals as defined in the rules of the Board of Trustees of the State Police Retirement System, using the active duty criteria supplied by the department in determining the extent of the disability.

(2) The five (5) years of service requirement contained in this subsection shall not apply to a member whom the Board of Trustees of the State Police Retirement System finds to be in receipt of workers' compensation for his or her disability arising solely and exclusively out of and in the course of his or her employment with the department.

(b) Upon his or her retirement upon account of disability as provided in subsection (a) of this section, a member shall receive a disability pension computed according to the contributory provisions of § 24-6-214 or the noncontributory provisions of § 24-6-227, as applicable.

(c)(1) At least one (1) time each year during the first five (5) years following a member's retirement on account of disability and at least one (1) time in every three-year period thereafter, the Board of Trustees of the State Police Retirement System may, and upon the retirant's application shall, require any disability retirant who has not attained age fifty (50) to undergo a medical examination to be made by or under the direction of the medical professionals designated by the Board of Trustees of the State Police Retirement System.

(2) If the retirant refuses to submit to a medical examination in any such period, his or her disability pension may be suspended by the Board of Trustees of the State Police Retirement System until his or her withdrawal of his or her refusal.

(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability pension may be revoked by the Board of Trustees of the State Police Retirement System.

(4) If, upon the medical examination of the retirant, the medical professionals designated by the Board of Trustees of the State Police Retirement System report to the Board of Trustees of the State Police Retirement System that the retirant is physically capable of performing the duties of the rank held by him or her at the time of his or her retirement, the retirant shall be returned to the employ of the department, and his or her disability pension shall be terminated.

(d)(1) Upon a disability retirant's return to the employ of the department as provided in subsection (c) of this section, his or her

service at the time of his or her retirement shall be restored to his or her credit.

(2) He or she shall be given service credit for the period he or she was receiving a disability pension if within that period he or she was in receipt of workers' compensation on account of his or her department employment.

(e) In the event a disability retirant who has not attained age fifty-five (55) performs personal services in an occupation, business, or employment, his or her disability pension shall be reduced so that the sum of his or her disability pension and the compensation received by him or her from the occupation, business, or employment shall not exceed his or her annual rate of salary at the time of his or her retirement.

History. Acts 1997, No. 1071, § 1; 1999, No. 387, § 4; 2007, No. 404, § 4.

Amendments. The 2007 amendment substituted "Board of Trustees of the State Police Retirement System" for "board" and made minor stylistic changes throughout the section; rewrote (a)(1)(B); substituted "according to the contributory provisions of § 24-6-214 or the noncontributory provisions of § 24-6-227, as applicable" for "according to § 24-6-406" in

(b); in (c)(1), substituted "one (1) time" for "once" twice and substituted "fifty (50)" for "fifty-five (55)"; substituted "Board of the Trustees of the State Police Retirement System" for "board" in (c)(1), (c)(2), (c)(3) and (c)(4); substituted "medical professionals designated by the Board of Trustees of the State Police System report to" for "physician reports" in (c)(1) and (c)(4); and made gender neutral changes throughout the section.

24-6-406. Benefits generally.

(a)(1) Upon retirement as provided in this subchapter, a member shall receive a straight life pension equal to two and four hundred seventy-five thousandths percent (2.475%) of the member's final average compensation multiplied by the number of years and any fraction of a year of his or her service.

(2)(A) In addition, if a member has service resulting from employment in a position covered at any time by social security or another federal retirement plan supported wholly or in part by employer contributions, and if that member's age at retirement is younger than:

(i) Social security's minimum age for an immediate retirement benefit; and

(ii) Age sixty-two (62), then the member shall receive a temporary annuity equal to five hundred thirteen thousandths percent (.513%) of the member's final average compensation for each year of his or her actual service.

(B) The temporary annuity shall terminate at the end of the calendar month in which the earliest of the following events occurs:

(i) The member's death;

(ii) The member's attainment of the social security minimum age;

or

(iii) The member's attainment of age sixty-two (62).

(b) In the event a member with five (5) years or more of actual service in the State Police Retirement System ceases to be employed as a state police officer prior to reaching fifty-five (55) years of age and does not withdraw his or her accumulated employee contributions to the system, the member shall be entitled to receive a pension upon reaching what the member's voluntary retirement age would have been if he or she had continued state police employment from the time of termination of employment.

(c) Any member may elect to withdraw his or her accumulated contributions to the system at the time of terminating employment as a state police officer and to waive any pension rights the member may have earned in the system.

(d) It is considered sound public policy that retirement pay not exceed working pay except for increases after retirement caused by inflation. Accordingly, at the time of retirement, the total of named-plan annuities shall not exceed the member's final average compensation.

(e) No provision of this section shall be applicable to service that is credited at a rate other than one (1) month for each month of employment.

History. Acts 1997, No. 1071, § 1;
1999, No. 387, § 5; 2001, No. 151, § 66.

24-6-411. Benefit provisions — Death.

(a) If an active member with five (5) or more years of actual service, including service for the year immediately preceding his or her death, dies in employer service before retirement, the applicable benefit provided in this section shall be paid upon written application to the Board of Trustees of the State Police Retirement System.

(b)(1)(A) In the event that a member dies and is not being paid on that date by his or her employer due solely to illness incurred before he or she left the payroll and the death occurs within one (1) year of the last payroll, the member shall be considered, for purposes of this section, to have died as an active member if all other necessary provisions of this section are met.

(B) For purposes of computing benefits provided by this section, the deceased member's salary at the time of death shall be his or her salary for the year immediately preceding the cessation of his or her pay.

(2)(A) If an active member with five (5) or more years of actual service does not have credited service for the year immediately preceding death due to illness which eventually leads to his or her death or due to his or her employer's removing the member from the payroll because of temporary economic conditions of the employer or weather conditions, the active member shall be considered, only for eligibility purposes of the section, to have credited service for the year preceding death.

(B) Benefits shall be paid according to the salary earned during the year preceding death.

(c)(1) The member's surviving spouse who was married to the member at least the one (1) year immediately preceding the member's death shall receive an annuity computed in the same manner in all respects as if the member had retired on the date of his or her death with entitlement to an annuity provided for in § 24-6-406, elected the Option B75 survivor annuity provided for in § 24-6-408, and nominated his or her spouse as joint beneficiary.

(2)(A) If the member has satisfied the age and service requirement provided for in § 24-6-404 or had acquired twenty (20) years' actual service, then the spouse annuity shall commence immediately and be payable for his or her life.

(B) If the member had acquired fifteen (15) years' actual service, but had not attained age sixty-five (65), the spouse annuity shall commence at the later of either age fifty (50) or his or her age at his or her death and shall be payable until the earlier of his or her remarriage or death. Otherwise, the spouse annuity shall commence at the later of either age sixty-two (62) or his or her age at his or her death and shall be payable until the earlier of either his or her remarriage or death.

(3) The spouse annuity shall not be less than ten percent (10%) of the deceased member's covered compensation at the time of death.

(4) In any event, as long as the surviving spouse has in his or her care any of the deceased member's dependent children receiving a benefit provided for in this section, there shall be payable to him or her a spouse annuity which shall not be less than ten percent (10%) of the deceased member's compensation at the time of death.

(d)(1) The member's dependent child or dependent children shall each receive an annuity of the greater of either ten percent (10%) of the member's covered compensation at the time of death or an equal share of one hundred fifty dollars (\$150) monthly.

(2) If there are three (3) or more dependent children, each dependent child shall receive as an annuity an equal share of the greater of either twenty-five percent (25%) of the member's covered compensation or one hundred fifty dollars (\$150) monthly.

(3)(A) A child shall be a dependent child until his or her death, his or her marriage, or his or her attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university but in no event beyond his or her attainment of age twenty-three (23).

(ii) The age eighteen (18) maximum shall also be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction or by the board for as long as the incompetency exists.

(4) Upon a child's ceasing to be a dependent child, his or her annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e) If at the time of the member's death there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of either ten percent (10%) of the member's covered compensation or an equal share of one hundred fifty dollars (\$150) monthly, but only if the board finds that the parent was dependent for at least fifty percent (50%) of his or her financial support upon the member.

(f)(1) If no annuity can become payable to a dependent child due to the death of the member, and a surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits and the spouse or dependent parents are also the designated beneficiaries of the member, then, in that event, the surviving spouse or dependent parent may elect to receive a refund of the member's accumulated contributions in lieu of any benefits which could become payable under this subchapter.

(2) The option to choose a refund of the member's contribution shall also be afforded to any spouse or dependent parent qualified under this section whose eligibility for the benefit occurred before the passage of this chapter and who could not exercise that option.

(3) Once the refund of the deceased member's accumulated contributions has been made to the surviving spouse or dependent parents under this subsection, the recipient shall have no future claim to monthly retirement benefits due to the death of the member.

(g)(1) In the event all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to his or her accumulated contributions standing to his or her credit in the member's deposit account at the time of his or her death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving a termination, the difference shall be paid to the member's estate.

(h)(1) In the case of a surviving spouse of a deceased member who had benefits terminated due to remarriage under the provisions of this section, the surviving spouse of the member shall be entitled to a reinstatement of benefits upon the death of any subsequent spouse.

(2) The benefits shall cease immediately upon the death or remarriage of the surviving spouse.

(i)(1) If the member is killed while in the official line of duty and the surviving spouse is eligible for a deferred benefit under this section, the surviving spouse may elect to receive a reduced benefit beginning immediately.

(2) The reduction of the benefit otherwise defined in this section shall be:

(A) Five-tenths of one percent (0.5%) per month for each of the first sixty (60) months that the benefit begins before it would have otherwise begun; plus

(B) Twenty-five hundredths of one percent (0.25%) per month for each month more than sixty (60) months that the benefit begins before it would have otherwise begun.

(3) However, the total reduction under this subsection shall not be more than fifty percent (50%).

(4) Those who otherwise would have been eligible for this benefit on or after July 1, 2002, may also elect this reduced benefit prospectively.

History. Acts 1997, No. 1071, § 1; 1999, No. 387, § 7; 2001, No. 151, § 67; 2003, No. 1735, § 1.

Publisher's Notes. In reference to the term "passage of this chapter," Acts 1997, No. 1071, § 7, provided that the act would become effective: on the date of its approval by the Governor; if the Governor

neither approved nor vetoed the bill, on the expiration of the period of time during which the Governor may veto the bill; or if the Governor vetoed the bill and the veto was overridden, on the date the last house overrides the veto. The act was signed by the Governor on April 3, 1997.

CASE NOTES

Applicability.

Given that the term "full-time student" is not defined in § 11-27-527(d)(2), but (1) §§ 24-6-216(d)(B)(i) and 24-6-216(e)(1)(B)(i) refer to a child's benefits terminating at age 18 but extending until age 23 as long as the child is continuously enrolled as a full-time student, (2) subdivision (d)(3)(B)(i) of this section and § 24-4-608 refer to a child being eligible as long as the child continues uninterruptedly from being a full-time student, and (3) § 6-82-202(7) defines full-time student for purposes of the state scholarship pro-

gram, had the legislature intended to restrict the definition of full-time student in § 11-27-527, it could have done so, and in light of the purpose under § 11-9-101(b) and the strict construction of workers' compensation laws under § 11-9-704(c)(3), the court will not read into the statute the restriction that the term "full-time student" is defined by each individual student's college handbook or catalog. *Death & Permanent Disability Trust Fund v. Anderson*, 83 Ark. App. 230, 125 S.W.3d 819 (2003).

SUBCHAPTER 5 — ARKANSAS STATE POLICE OFFICERS' TIER TWO DEFERRED RETIREMENT OPTION PLAN

SECTION.

24-6-501. Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan — Creation.

24-6-502. Election to participate in Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan.

SECTION.

24-6-503. Limitation on credited service.

24-6-504. Employer contributions.

24-6-505. Benefits — Rate of return.

24-6-506. Method of collection.

24-6-507. Duration.

24-6-508. Death of participant.

A.C.R.C. Notes. Acts 2009, No. 1242, § 1, provided: "Legislative history, findings,

and intent.

"(a) It is found and determined by the

General Assembly that the Department of Arkansas State Police has had ongoing financial difficulty for over twelve (12) years. The State Police Retirement System has sustained investment losses of approximately one hundred million dollars (\$100,000,000) within the last two (2) years, and so needs a larger investment pool to help reduce risk and enhance returns. The Arkansas Public Employees' Retirement System has the size and expertise to effectively reduce the volatility of returns, enhance relative returns, and best protect the State Police Retirement System.

"(b) This act represents a negotiated alternative to a proposal that would have eliminated the State Police Retirement System and would have made it a division of the Arkansas Public Employees' Retirement System.

"(c) This act maintains the autonomy over State Police Retirement System benefits but ensures funds are invested in a larger, more diversified pool of assets.

"(d) It is contemplated that at such time as the State Police Retirement System attains a funding level in which assets are eighty percent (80%) or more of actuari-

ally accrued liabilities, the Board of Trustees of the State Police Retirement System may consider certain enhancements to the Tier II Deferred Retirement Option Plan."

Effective Dates. Acts 2009, No. 1242, § 6: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Department of Arkansas State Police has had ongoing financial difficulty for over twelve (12) years; that the State Police Retirement System has sustained investment losses of approximately one hundred million dollars (\$100,000,000) within the last two (2) years; that a larger investment pool is needed to help reduce risk and enhance returns; that the Arkansas Public Employees' Retirement System has the size and expertise to effectively reduce the volatility of returns, enhance relative returns, and best protect the State Police Retirement System; and that this act is immediately necessary to protect the members and beneficiaries of the State Police Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

24-6-501. Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan — Creation.

The Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan is created in conformance with this subchapter.

History. Acts 2009, No. 1242, § 4.

24-6-502. Election to participate in Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan.

In lieu of terminating employment and accepting a service retirement pension, a state police officer may elect to participate in the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan and defer the receipt of benefits in accordance with this subchapter if:

(1) The state police officer:

(A) Is a member of the State Police Retirement System's Tier Two Benefit Plan under § 24-6-401 et seq.;

(B) Has at least thirty (30) years of actual service as a member of the State Police Retirement System's Tier Two Benefit Plan under § 24-6-401 et seq.; and

(C) Is eligible to receive a service retirement pension; and

(2) The Board of Trustees of the State Police Retirement System approves the participation in the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan.

History. Acts 2009, No. 1242, § 4.

24-6-503. Limitation on credited service.

For purposes of this subchapter, "actual service" includes:

(1) The service credit a member earns after April 3, 1997, as a member of the State Police Retirement System's Tier Two Benefit Plan under § 24-6-401 et seq.; and

(2) The member's service credit from any reciprocal retirement system under § 24-2-401.

History. Acts 2009, No. 1242, § 4.

24-6-504. Employer contributions.

When an employee who is a member of the State Police Retirement System's Tier Two Benefit Plan begins participation in the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan:

(1) The employer contributions shall continue to be paid;

(2) State contributions for the employee shall be credited to the State Police Retirement System; and

(3) Seventy-two percent (72%) of the monthly retirement benefits that would have been payable had the employee elected to cease employment and receive a service retirement shall be paid into the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan account.

History. Acts 2009, No. 1242, § 4.

24-6-505. Benefits — Rate of return.

A participant in the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan:

(1) Shall not have a change in his or her monthly retirement benefit unless the plan receives a benefit increase; and

(2)(A) Shall earn interest at a rate set by the Board of Trustees of the State Police Retirement System that shall not be greater than five percent (5%) nor less than one percent (1%) per annum as determined by the board from time to time as promulgated by rule.

(B) The interest shall be credited to the individual plan account balance of the participant on an annual basis.

History. Acts 2009, No. 1242, § 4.

24-6-506. Method of collection.

A participant in the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan shall receive, at the option of the participant:

- (1) A lump-sum payment from the plan account equal to the payments to the plan account;
- (2) A true annuity based upon the plan account of the participant; or
- (3) Any other method of payment if approved by the Board of Trustees of the State Police Retirement System.

History. Acts 2009, No. 1242, § 4.

24-6-507. Duration.

(a) The duration of participation in the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan for an active state police officer shall not exceed seven (7) years.

(b) At the conclusion of a state police officer's participation in the plan, the state police officer shall:

- (1) Terminate employment with the Department of Arkansas State Police; and
- (2) Start receiving his or her accrued monthly retirement benefit from the State Police Retirement System.

History. Acts 2009, No. 1242, § 4.

24-6-508. Death of participant.

If a participant in the Arkansas State Police Officers' Tier Two Deferred Retirement Option Plan dies during the period of participation in the plan, a lump-sum payment equal to the plan account balance of the participant shall be paid to the participant's designated beneficiary.

History. Acts 2009, No. 1242, § 4.

CHAPTER 7**RETIREMENT OF EMPLOYEES OF SCHOOLS AND
EDUCATIONAL INSTITUTIONS****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. ARKANSAS TEACHER RETIREMENT SYSTEM — GENERAL PROVISIONS.
3. ARKANSAS TEACHER RETIREMENT SYSTEM — BOARD OF TRUSTEES.
4. ARKANSAS TEACHER RETIREMENT SYSTEM — FUNDS AND MANAGEMENT OF ASSETS.
5. ARKANSAS TEACHER RETIREMENT SYSTEM — MEMBERSHIP.
6. ARKANSAS TEACHER RETIREMENT SYSTEM — CREDITED SERVICE.
7. ARKANSAS TEACHER RETIREMENT SYSTEM — BENEFITS.
8. ALTERNATE PLAN FOR STATE COLLEGES.
9. ALTERNATE PLAN FOR VOCATIONAL-TECHNICAL SCHOOLS.
12. TAX-DEFERRED SAVINGS PROGRAMS FOR THE MEMBERS OF THE ARKANSAS TEACHER RETIREMENT SYSTEM. [REPEALED.]

SUBCHAPTER

13. TEACHER DEFERRED RETIREMENT OPTION PLAN.

14. ARKANSAS TEACHER RETIREMENT SYSTEM AFFORDABLE HOUSING INVESTMENT ACT. [REPEALED.]

15. RETIRANTS' AD HOC INCREASE ACT.

16. ARKANSAS TEACHER RETIREMENT SYSTEM — OPTIONAL PARTICIPATION BY EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

24-7-102. Management of early retirement window incentives.

SECTION.

24-7-103. Payment of employer contribution rate.

24-7-102. Management of early retirement window incentives.

(a) The purpose of this section is to create incentives for the efficient management of the public higher education resources of the State of Arkansas by allowing public higher education institutions to establish early retirement window incentives for qualified nontenured faculty and staff who elect voluntary separation from the institution.

(b) The boards of trustees of the publicly supported institutions of higher education may provide special allowances for nontenured faculty and staff to effect a saving in personnel salaries and fringe benefits costs when it is determined by the boards that such saving will provide for more efficient operation of the institutions.

(c)(1) The boards of trustees shall approve criteria to determine qualifications to be met by the institutions and the employee.

(2) Such qualifications shall include, but are not limited to:

(A) Assurance that participation is strictly voluntary for employees;

(B) Only full-time employees who are at least fifty-five (55) years of age or meet the retirement requirements for the United States Civil Service; and

(C) A savings in personnel cost will be realized by the institution.

(d) The amount of all such allowances for any institution shall not exceed, in the aggregate during any fiscal year, an amount equal to one percent (1%) of the aggregate paid for personnel costs during the preceding fiscal year for the institution.

(e) The boards of trustees are authorized to pay such allowances from any appropriation provided for regular salaries for the benefit of their institutions and from any sources of funds available to the institutions.

(f) The board of trustees of each institution shall report the exact disposition of the special allowance to the Legislative Joint Auditing Committee by July 1 of each year.

History. Acts 1995, No. 296, §§ 1-5.

A.C.R.C. Notes. This section is set out

above to reconcile the print and electronic versions of this section.

24-7-103. Payment of employer contribution rate.

Local school districts shall pay the teacher retirement employer contribution rate for any eligible employee in accordance with rules and regulations established by the Board of Trustees of the Arkansas Teacher Retirement System.

History. Acts 1995, No. 1194, § 13.

A.C.R.C. Notes. Acts 2011, No. 1075, § 20, provided: "RETIREMENT MATCHING. Beginning with the 1996-97 school year, Local School Districts shall pay the teacher retirement employer contribution rate for any eligible employee in accordance with rules and regulations established by the Teacher Retirement Board of Directors. The appropriation contained

herein for Teacher Retirement Matching each fiscal year shall be used to provide the employer matching for employees of the Cooperative Education Services Areas, Vocational Centers, Arkansas Easter Seals and the school operated by the Department of Correction.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

SUBCHAPTER 2 — ARKANSAS TEACHER RETIREMENT SYSTEM — GENERAL PROVISIONS

SECTION.

24-7-202. Definitions.

24-7-203. Penalty.

24-7-205. Correction of errors.

SECTION.

24-7-209. Suspension of benefit payments upon request.

24-7-210. Federal taxation.

Effective Dates. Acts 2001, No. 155, § 5: Applies retroactively to January 1, 2001.

Acts 2001, No. 155, § 7: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that provisions of the Arkansas Teacher Retirement System law need to be reconciled with federal tax laws; that these changes should take place retroactively to January 1, 2001; and that this act should have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 461, § 7: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that it is a necessity to set a normal retirement age for eligibility for retirement benefits in order to maintain the integrity of the Arkansas Teacher Retirement System; and that changes in legal provisions of the retirement system can most effectively be managed at the beginning of the state's fiscal year; and therefore this act should take effect with the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 71, § 5: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the applicability of the Internal Revenue Code is unclear in current Arkansas Teacher Retirement Systems laws; that this act is necessary to clarify the issue and ensure consistent and correct application of Arkansas Teacher Retirement System provisions; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year.

Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 146, § 4: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System are unclear regarding certain eligibility and benefit requirements; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 1026, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Teacher Retirement System has no mechanism to recoup overpayment in certain circumstances; that the absence of the ability leads to the potential loss of funds from the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 2190, § 24: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the services of the county boards of education are no longer needed by the school districts; that there will be no funding available for the operation of the county boards of education; and that this act is immediately necessary because county boards of education need sufficient authority to transfer functions, duties, and records prior the end of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 97, § 19: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System require technical revisions; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 465, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2009, No. 468, § 28: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pension policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas

Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2009, No. 1325, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 45, § 22: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System assets and accounting are complex, and the system must be able to appropriately manage the system members accounts and benefits; that many of these technical corrections are currently the policy of the Board of Trustees of the Arkansas Teacher Retirement System and should be codified to reflect that policy; and that this act is immediately necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by

the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 69, § 22: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that a member's purchase of service credit currently provides that a member pay the system yesterday's dollars for the value of today's benefits; that such a valuation is unfair to the members as a whole and inconsistent with the prudent management of the system's funds and obligations; that the purchase of service credit in the system should be based upon actuarial equivalents; that the purchase of service credit should be paid in a lump sum to the system; that current service purchase accounts remain unpaid and inactive for many years at a time and create an administrative burden and accounting difficulty on the system that can be remedied by the passage of this act; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 138, § 3: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that finality of decisions and calculations after four (4) fiscal years are needed to better allocate system resources; that this revision is of great importance to benefit participants and employers of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being neces-

sary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 163, § 3: Mar. 4, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System are in urgent need of revision and updating to bring them into compliance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System should not provide service credit for contract buy-outs when services are not provided on-site to the employer to prevent undue

costs from being passed on to the system by contract buyout participants obtaining vesting and service credit rights that otherwise would not be earned or payable; and that this act is immediately necessary because allowing inactive contract buy-outs for service credit is poor public policy. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

24-7-202. Definitions.

As used in this act:

(1) “Accumulated contributions” means the total of all amounts contributed by a member credited to the member’s deposit account, together with regular interest;

(2) “Active member” means any member eligible for service credit rendering service to an employer that is covered by the Arkansas Teacher Retirement System;

(3) “Actual service” means service rendered in a position covered by the Arkansas Teacher Retirement System and does not include purchased or free credited service or reciprocal service;

(4) “Actuarial equivalent” means a benefit of equal reserve value when reserve is the present value of all payment to be made on account of any benefit based upon such reasonable rate of interest and table of experience as a plan shall adopt from time to time;

(5) “Annuity” means an amount payable to a retiree each fiscal year by the Arkansas Teacher Retirement System in equal monthly installments;

(6) “Beneficiary” means any person who is receiving or is designated by a member to receive an Arkansas Teacher Retirement System benefit;

(7) “Benefit program” means a schedule of benefits or benefit formulas from which the amounts of Arkansas Teacher Retirement System benefits can be determined;

(8) “Board” means the Board of Trustees of the Arkansas Teacher Retirement System;

(9) “Child of a member” means either a natural child of the member or a child who has been made a child of the member by applicable court action before the death of the member;

(10) "Credited service" means service which is creditable as service by the Arkansas Teacher Retirement System;

(11) "Deferred member" means an inactive member who is eligible to receive benefits under § 24-7-707;

(12) "Employee" means any person employed by an employer covered by the Arkansas Teacher Retirement System;

(13) "Employer" means any public school, public educational agency, or other eligible employer participating in the Arkansas Teacher Retirement System;

(14) "Employment with a school" means, beginning July 1, 1993:

(A) Employment with any of the following institutions or agencies:

(i) Arkansas School for the Blind;

(ii) Arkansas School for the Deaf;

(iii) Arkansas Activities Association;

(iv) State Board of Education;

(v) Regional education service cooperatives; and

(vi) Arkansas Teacher Retirement System;

(B) Employment in a position with any of the following organizations:

(i) The Arkansas Educational Television Commission; and

(ii) Area vocational-technical schools, except those employees of area vocational schools and the Department of Career Education who have elected to participate in an alternate retirement plan established by §§ 24-7-901 and 24-7-903 — 24-7-908;

(C) Employment by the Arkansas Rehabilitation Services of the Department of Career Education except those employees who have elected to participate in the Arkansas Public Employees' Retirement System;

(D)(i) Employment in a position with an educationally related agency if the employee is or has been a member of the Arkansas Teacher Retirement System for a minimum of five (5) years and elects to become or remain a member of the Arkansas Teacher Retirement System. The employment shall be related to:

(a) Training public school employees or school board members;

(b) Teaching public school students; or

(c) Adult education programs.

(ii) The employment shall not be related in any manner to private schools.

(iii) Each educationally related agency shall be:

(a) Approved according to rules and regulations established by the board;

(b) Considered an employer under subdivision (13) of this section; and

(c) Responsible for all required employer contributions;

(E)(i) Employment in an enterprise privatized by a public school district.

(ii) If a public school district should privatize any of its services, any individual who is or was employed by the school district in one (1)

of those services and who is or has been a member of the Arkansas Teacher Retirement System may elect to remain a member if:

(a) The board determines pursuant to rules adopted by the board that the participation of these employees in the Arkansas Teacher Retirement System will not in any way impair any legal status of the Arkansas Teacher Retirement System, including without limitation its status as a governmental plan pursuant to the Internal Revenue Code and the Employee Retirement Income Security Act of 1974, or have a substantial adverse impact on the actuarial soundness of the Arkansas Teacher Retirement System; and

(b) The private provider assumes all responsibility for the required employer contributions and any fees for obtaining Internal Revenue rulings or Employee Retirement Income Security Act of 1974 opinions; and

(F)(i) Employment in positions with an educational nonprofit corporation licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services, if:

(a) The nonprofit corporation has elected to participate in the Arkansas Teacher Retirement System; and

(b) The board determines pursuant to rules adopted by the board that the participation of the educational nonprofit corporation will not in any way impair any legal status of the Arkansas Teacher Retirement System, including without limitation its status as a governmental plan pursuant to the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974, or have a substantial adverse impact on the actuarial soundness of the Arkansas Teacher Retirement System.

(ii) The employment shall be related to:

(a) Training public school employees or school board members;

(b) Teaching public school students; or

(c) Adult education programs.

(iii) The employment shall not be related in any manner to private schools.

(iv) Each educational nonprofit corporation shall be:

(a) Approved according to rules and regulations established by the board;

(b) Considered an employer under subdivision (13) of this section; and

(c) Responsible for all required employer contributions and any fees for obtaining Internal Revenue rulings or Employee Retirement Income Security Act of 1974 opinions;

(15)(A)(i) "Final average salary" means the average of the remuneration paid to a member by a participating employer during the fiscal year ending June 30 of not less than three (3) years nor more than five (5) years of credited service producing the highest annual average determined in accordance with the rules and regulations of the board as is actuarially appropriate for the Arkansas Teacher Retirement System.

(ii) Before reducing the time period used to determine final average salary, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs, and the action shall be reviewed by the Joint Interim Committee on Public Retirement and Social Security Programs.

(B) If a member has less than the minimum of three (3) years of credited service, "final average salary" means the annual average of salaries paid to him or her during his or her total years of credited service, subject to the provisions of subdivision (27)(A) of this section;

(16) "Inactive member" means a formerly active member who is:

(A) No longer rendering service that is covered by the Arkansas Teacher Retirement System; and

(B) Not a retirant;

(17) "Interest" means the rate or rates per annum, compounded annually, as the board shall adopt from time to time, that will be charged for the purchase of service credit or to repay a refund, or repayment of benefits, but the rate shall equal no less than the Arkansas Teacher Retirement System's current assumed interest rate assumption;

(18) "Internal Revenue Code" means the federal Internal Revenue Code of 1986, as amended, as it existed on January 1, 2009;

(19) "Member" means any person included in the membership of the Arkansas Teacher Retirement System;

(20) "Nonteacher" means any member except a teacher;

(21) "Normal retirement age" means sixty-five (65) years of age;

(22) "Reciprocal service" means credited service rendered under a reciprocal system as defined by § 24-2-401;

(23) "Regular interest" means the rate or rates per annum, compounded annually, which the board shall adopt from time to time, that will be used to compute interest on members' contributions;

(24) "Reserve" means the present value of all payments to be made on account of any Arkansas Teacher Retirement System benefit based upon such reasonable tables of experience and regular interest as the board shall adopt from time to time;

(25) "Retirant" means a member receiving an Arkansas Teacher Retirement System annuity;

(26) "Retires" means that a member ceases to be active and is eligible to receive retirement benefits from the Arkansas Teacher Retirement System;

(27)(A) "Salary" means the remuneration paid to a member employed in a position covered by the Arkansas Teacher Retirement System on which the employer withholds federal income tax.

(B) "Salary" includes:

(i) An incentive bonus paid to an employee for the employee's certification by the National Board for Professional Teaching Standards under § 6-17-413; and

(ii) Employer pick-up contributions, cafeteria plans as defined in § 21-5-901, and employee contributions to qualified retirement

plans, including without limitation qualified annuities and deferred compensation plans;

(28) "School" means any public school under the control of school authorities of the state and supported wholly or partially by state moneys;

(29) "Service" means employment rendered as an employee;

(30) "Social security" means the federal social security old age, survivors', and disability insurance program;

(31) "State" means the State of Arkansas;

(32) "System" means the Arkansas Teacher Retirement System;

(33)(A) "Teacher" means, beginning July 1, 1989, any person employed by a school for the purpose of giving instructions and whose employment requires state licensure.

(B) In any case of a question as to who is a teacher, the board shall have the final power to decide the question;

(34) "T-DROP" means the Teacher Deferred Retirement Option Plan established by the Arkansas Teacher Retirement System;

(35) "T-DROP plan interest" means the rate per annum that the board shall adopt from time to time that will be used to compute interest paid on T-DROP mean balances at the end of each fiscal year;

(36) "Trustee" means a member of the board;

(37)(A) "Service purchase account" means an account established by a member with the Arkansas Teacher Retirement System to allow the member to buy service credit in the system as allowed under this subchapter.

(B) "Service purchase account" does not include an account established by the system to allow a member to make payments on unreported or incorrectly reported contributory service credit that is not resolved through a release process; and

(38)(A) "Benefit participant" means a person or entity that receives or may receive any kind of benefit, annuity, or other payment from the system due to a member's participation in the system.

(B) "Benefit participant" includes without limitation:

(i) A member;

(ii) A spouse or a member;

(iii) A survivor;

(iv) A residual beneficiary;

(v) A death beneficiary;

(vi) A former spouse of a member; and

(vii) The estate of a member; and

(39) "Look-back period" means a period of time that includes the current fiscal year and the four (4) fiscal years immediately preceding the current fiscal year.

History. Acts 1973, No. 427, § 2; 1983, No. 619, § 1; 1983, No. 665, § 1; 1985, No. 805, § 1; A.S.A. 1947, § 80-1437; Acts 1989, No. 652, § 1; 1989, No. 653, § 1; 1993, No. 435, § 1; 1993, No. 897, § 1; 1995, No. 460, § 1; 1995, No. 542, § 1; 1995, No. 638, §§ 1, 2; 1997, No. 142, § 1; 1997, No. 1064, § 1; 1997, No. 1137, § 3; 1999, No. 11, § 1; 1999, No. 865, § 3; 2001, No. 155, § 1; 2001, No. 461, § 1;

2005, No. 71, § 1; 2005, No. 146, § 2; 2005, No. 2190, § 23; 2007, No. 97, § 1; 2007, No. 617, § 44; 2009, No. 468, § 1; 2009, No. 1325, § 1; 2009, No. 1326, § 2; 2011, No. 45, § 1; 2011, No. 69, §§ 3, 4; 2011, No. 138, § 1; 2011, No. 163, § 1; 2011, No. 225, § 1.

Amendments. The 2007 amendment by No. 97 substituted “to an employer that” for “which” in (2); inserted present (3), (11), (22), (34) and (35), and redesignated the remaining subsections accordingly; deleted “by reason of the Arkansas Teacher Retirement System membership of another person” at the end of (6); substituted “an employer covered by the Arkansas Teacher Retirement System” for “a school in a regular or special position” in (12); substituted “(27)(A)” for “(24)(A)” in (15)(A)(i) and (15)(B); inserted “or repayment of benefits” in (17); substituted “January 1, 2007” for “January 1, 2005, except as provided in § 24-7-406(c)(1)(A)(ii)” in (18); substituted “member” for “employee” in (20); deleted “by reason of having been a member” at the end of (25); substituted “that a member ceases to be active and is eligible to receive retirement benefits from the Arkansas Teacher Retirement System” for “the beginning of annuity payments to a retiree” in (26); substituted “licensure” for “certification” in (33)(A); and made related and stylistic changes.

The 2007 amendment by No. 617 inserted “service” preceding “cooperatives” in (14)(A)(vi).

The 2009 amendment by No. 468 rewrote (5); inserted “or other eligible employer” in (13); in (14), deleted (14)(A)(iv) and (14)(B)(i), and redesignated the re-

maining subdivisions, deleted “or the Division of State Services for The Blind of the Department of Human Services” following “Education” and “the noncontributory plan of” following “participate in” in (14)(C), and deleted “and regulations” following “rules” in (14)(E)(ii)(a) and (14)(F)(i)(b); and made related and minor stylistic changes.

The 2009 amendment by No. 1325 rewrote (15)(A)(i); substituted “January 1, 2009” for “January 1, 2007” in (18); deleted “former” preceding “member” in (25); rewrote (27); and made minor stylistic changes in (15)(A)(ii), (15)(B), and (16).

The 2009 amendment by No. 1326 added the (27)(A)(i)(a) designation; and added (27)(A)(i)(b).

The 2011 amendment by No. 45 inserted “eligible for service credit” in (2).

The 2011 amendment by No. 69 added “when reserve is the present value ... as a plan shall adopt from time to time” in (4); and added (37).

The 2011 amendment by No. 138 added (38) and (39).

The 2011 amendment by No. 163 inserted “for on-site work” in (27)(B)(ii).

The 2011 amendment by No. 225 rewrote (27).

Effective Dates. Acts 2001, No. 155, § 5: Applies retroactively to January 1, 2001.

Acts 2005, No. 146, effective July 1, 2005.

Acts 2005, No. 2190, effective April 13, 2005.

U.S. Code. The Social Security Act is codified as 42 U.S.C. § 301 et seq. The Internal Revenue Code of 1986 is codified throughout Title 26 of the U.S. Code.

24-7-203. Penalty.

Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record or records in an attempt to defraud the Arkansas Teacher Retirement System shall be guilty of a Class A misdemeanor and upon conviction shall be punished as provided by law.

History. Acts 1973, No. 427, § 10; A.S.A. 1947, § 80-1444; Acts 2005, No. 1994, § 207.

24-7-205. Correction of errors.

(a)(1) If a change, omission, or error in the records of the Arkansas Teacher Retirement System results in a benefit participant, employer, or the system having received an overpayment or underpayment of any obligation, liability, contribution, or other right to payment more or less than what would have been paid or received if the records had been correct, the system or its designee shall correct the record and, as far as practicable, shall adjust the obligation, liability, contribution, or other right to payment.

(2) A refund payable to a benefit participant shall be paid based on the corrected record.

(3) The system may withhold an amount owed to the system from a benefit participant to correct an overpayment made to the benefit participant.

(b)(1) If a benefit participant is paid any benefit or other distribution by the system to which the benefit participant is not entitled or the benefit participant or employer has an unpaid obligation to the system, the system or its designee, under rules adopted by the Board of Trustees of the Arkansas Teacher Retirement System, may:

(A) Withhold the amount due from any benefit or payment due the benefit participant; or

(B) Collect the amount in any other manner provided by law.

(2) Withheld amounts shall be used to effect repayment until the total amount withheld equals all amounts payable by the benefit participant to the system.

(3)(A) Before making an adjustment of benefits or pursuing any other collection action under this section, the system or its designee shall provide notice to the benefit participant or employer.

(B) The notice shall describe the process for disputing an adjustment of benefits.

(4) Except for member contributions, the board or its designee may waive adjustment or repayment due to the system, including interest, if:

(A) The error was not the result of the benefit participant's or employer's intentional nondisclosure, fraud, misrepresentation, or other fault; and

(B) The board or its designee finds in his or her or its sole discretion that recovery of the amount owed to the system will result in a manifest injustice.

(c) A determination, review, administrative action, cause of action, request to enforce, change, or modify an obligation, duty, benefit calculation, designation, refund, contribution, service credit, or other right arising under this subchapter shall not be valid unless commenced within the look-back period unless the system determines that the justification to commence the process is due to intentional nondisclosure, fraud, misrepresentation, or criminal act.

(d) The board or its designee may make adjustments to the employer, member, and system records beyond the look-back period if the board

determines that the time limitation imposed by the look-back period will result in a manifest injustice in a specific case.

History. Acts 1973, No. 427, § 10; A.S.A. 1947, § 80-1444; Acts 2005, No. 1026, § 1; 2009, No. 465, § 1; 2009, No. 468, § 2; 2011, No. 138, § 2.

Amendments. The 2009 amendment by No. 465 added (c).

The 2009 amendment by No. 468 substituted “system” for “the Board of Trustees of the Arkansas Teacher Retirement System” in (a); substituted “a member, a retirant, an annuitant, a beneficiary or an alternate payee receiving benefits or other

distributions” for “any person’s receiving” in (a); in (b), in (b)(1) deleted “former member, contributor, former contributor” following “member,” inserted “an annuitant,” and substituted “other distribution” for “payment” in (b)(1), and substituted “system” for “board” in (b)(1) and (b)(3)(A); and made related and minor stylistic changes.

The 2011 amendment rewrote the section.

24-7-209. Suspension of benefit payments upon request.

(a) Subject to the minimum distribution provisions of § 24-7-730, a person entitled to receive an annuity may submit a request to the system in writing, for personal reasons and without disclosure thereof, to suspend the payment of all the benefit otherwise payable to him or her by the system.

(b) Upon receipt of the request, the system shall authorize the suspension, and the person shall be deemed to have forfeited all rights to the benefit so suspended but shall have the right to have the full benefit otherwise payable reinstated as to future monthly payment upon written notice to the system to revoke the prior request for suspension under this section.

History. Acts 1999, No. 29, § 1; 2007, No. 97, § 2.

Amendments. The 2007 amendment substituted “Subject to the minimum dis-

tribution provisions of § 24-7-730” for “Notwithstanding any other provision of the Arkansas Teacher Retirement System” in (a).

24-7-210. Federal taxation.

(a) The Executive Director of the Arkansas Teacher Retirement System is authorized and directed to operate the Arkansas Teacher Retirement System and interpret any provisions of § 24-7-101 et seq. consistent with the requirements under the Internal Revenue Code and applicable United States Treasury regulations necessary to permit the system to be operated as a “qualified trust” under section 401(a) of the Internal Revenue Code.

(b) Notwithstanding any language to the contrary set forth in this chapter, the Board of Trustees of the Arkansas Teacher Retirement System shall have the authority to promulgate rules and regulations consistent with these directions.

(c) Any regulation promulgated under this section that is found to be in conflict with an applicable provision of the code is null and void.

History. Acts 2001, No. 155, § 2; 2005, No. 71, § 2.

Effective Dates. Acts 2001, No. 155,

§ 5: Applies retroactively to January 1, 2001.

SUBCHAPTER 3 — ARKANSAS TEACHER RETIREMENT SYSTEM — BOARD OF TRUSTEES

SECTION.

24-7-301. Board of trustees — Members.

24-7-302. Term of office and vacancies.

24-7-303. Board of trustees — Officers — Committees.

SECTION.

24-7-305. Board of trustees — Duties and responsibilities.

Effective Dates. Acts 2001, No. 156, § 3: February 8, 2001. The emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that membership on the Board of Trustees for the Arkansas Teacher Retirement System can change if members are not allowed to continue to serve after reaching the normal retirement age; that continuity and stability are important factors for the proper supervision of the retirement system; and that in order to retain valuable members on the board, it is necessary for this act to have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 385, § 10: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system; that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort; that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies;

and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 97, § 19: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System require technical revisions; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 468, § 28: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pension policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this

act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 975, § 3: Apr. 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that when an unexpected vacancy occurs in a trustee position, the Board of Trustees of the Arkansas Teacher Retirement System must be able to appoint a trustee until a special election is called; that trustees are called away from their regu-

lar job duties and responsibilities to attend system board meetings and should be encouraged to attend and accommodated in their attendance to fulfill their elected board functions; and that this act is immediately necessary in order to maintain an orderly system of benefits for members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

24-7-301. Board of trustees — Members.

The general administration and responsibility for the proper operation of the system and for making effective the provisions of this act are vested in a board of trustees of fifteen (15) persons as follows:

(1) The Bank Commissioner, the Treasurer of State, the Auditor of State, and the Commissioner of Education shall be ex officio trustees;

(2)(A) Seven (7) members shall be elected member trustees, each of whom shall have at least five (5) years of actual service in force and be an active member. For the purpose of this section and § 24-7-302, participants in the Teacher Deferred Retirement Option Plan shall be considered active members.

(B) Four (4) member trustees shall be employed in a position that requires state licensure, but not an administrator's license. One (1) member trustee will be elected from each of the four (4) congressional districts. The four (4) member trustees shall be elected by the members employed in positions that require state licensure, but not an administrator's license.

(C) Two (2) member trustees shall be employed in a position requiring an administrator's license, one (1) of whom must be a superintendent. These two (2) member trustees shall be elected by members employed in positions requiring administrator licensure.

(D) One (1) member trustee shall be employed in a position not requiring state licensure. This member trustee shall be elected by members employed in positions not requiring state licensure;

(3) One (1) trustee shall be a person of a minority racial ethnic group who is either an active or retired member of the Arkansas Teacher Retirement System and shall be elected from the active and retired membership of the system;

(4)(A) Three (3) retirants shall be elected retirant trustees by the retirees of the system.

(B) Each retirant trustee shall be a retirant with an annuity being paid by the system at the beginning of his or her term of office; and

(5) The member and retirant trustees shall be elected in accordance with rules as have been adopted by the board to govern the elections.

History. Acts 1973, No. 427, § 3; 1983, No. 126, § 1; A.S.A. 1947, § 80-1438; Acts 1995, No. 523, § 1; 1997, No. 418, § 1; 1999, No. 866, § 1; 2007, No. 97, § 3.

Amendments. The 2007 amendment substituted "licensure" for "certification" and "license" for "certificate" throughout

the section; substituted "Commissioner of Education" for "Director of the Department of Education" in (1); substituted "actual service" for "credited service" in (2)(A); and substituted "rules" for "such rules and regulations" in (5).

24-7-302. Term of office and vacancies.

(a)(1) The term of office of each member-elected trustee shall be six (6) years.

(2)(A)(i) A member trustee shall be ineligible to serve after becoming inactive or upon retiring.

(ii) A member trustee who participates in the Teacher Deferred Retirement Option Plan is considered active for purposes of this subsection.

(B) A retirant trustee is ineligible to serve after becoming active.

(b)(1)(A) If any member trustee fails to attend three (3) consecutive regular meetings of the Board of Trustees of the Arkansas Teacher Retirement System, unless in each case excused for cause by the remaining trustees attending the meetings, the member trustee shall be considered to have resigned from the board, and the board shall by resolution declare his or her office of trustee vacated.

(B) A regular meeting of the board shall include one (1) or more days of official business to be considered by the board.

(2) If a vacancy occurs in the office of an elected trustee, the board by majority vote may fill the vacancy by:

(A) A special election; or

(B) Appointment of a trustee until the next system election.

(c) The board shall adopt its own rules and regulations pertaining to attendance and vacancies as provided in subsection (b) of this section.

History. Acts 1973, No. 427, § 3; 1983, No. 126, § 2; A.S.A. 1947, § 80-1438; Acts 1991, No. 43, § 1; 1997, No. 418, § 2; 2001, No. 156, § 1; 2003, No. 196, § 1; 2009, No. 468, § 3; 2011, No. 975, § 1.

Amendments. The 2009 amendment, in (a), substituted "member-elected trustee" for "member and retirant trustee

elected after July 1, 1997" in (a)(1), inserted (a)(2)(A)(ii), and redesignated the remainder of (a)(2)(A) accordingly; subdivided and rewrote (b)(2); and made related and minor stylistic changes.

The 2011 amendment subdivided and rewrote (b)(2).

24-7-303. Board of trustees — Officers — Committees.

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall select from its own number a chair and a vice chair.

(b)(1) The trustees shall serve as trustees without compensation for their services as such, except that:

(A) Each trustee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(B) The system shall reimburse a trustee for reasonable expenses incurred in the performance of his or her duties as trustee, including without limitation, the cost of:

(i) A substitute teacher for a trustee;

(ii) Communication services required for paperless board meetings.

(2) Trustees are authorized to attend all system committee meetings, board meetings, and other official system functions without negative impact on his or her employment status.

(c) The board shall appoint the executive director of the system, and he or she shall serve as its chief executive officer. He or she shall perform, or cause to be performed, such duties as are required of him or her under this act and as the board shall delegate to him or her.

(d) The board shall appoint an actuary or a firm of actuaries to be technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary shall perform such duties as are required of him or her under this act and as are required of him or her by the board from time to time.

(e)(1) The board shall appoint a professional investment counsel to be investment advisor to the board.

(2)(A) No investment shall be made by the board until it has received the advice of its investment advisor.

(B) However, if the contemplated investment involves anything other than financial assets, as defined in § 4-8-102(a)(9), then in lieu of seeking advice from its investment advisor, the board shall seek and receive advice from a person having recognized expertise with respect to the type of investment contemplated.

(f) The board shall appoint a medical committee consisting of three (3) physicians to review applications for disability retirement.

(g) The executive director may employ such other professional and clerical services and purchase such equipment and supplies as are required for the proper operation of the system, subject to the approval of the board.

(h)(1) The compensation of the persons engaged by the board shall be consistent with the pay plan of the state.

(2)(A) All other expenses of the board necessary for the operation of the system shall be paid at such rates and in such amounts as the board shall approve.

(B) The board may create additional committees as necessary and appropriate to fulfill the duties and responsibilities of the board under this chapter.

History. Acts 1973, No. 427, § 3; A.S.A. 1947, § 80-1438; Acts 1997, No. 250, § 231; 1999, No. 555, § 12; 2009, No. 468, § 4; 2011, No. 975, § 2.

Amendments. The 2009 amendment subdivided (e); inserted “to review applications for disability retirement” in (f);

inserted (h)(2)(B) and redesignated the remainder of (h)(2) accordingly; and made minor stylistic changes.

The 2011 amendment subdivided former (b); and inserted (b)(1)(B) and (b)(2).

24-7-305. Board of trustees — Duties and responsibilities.

(a)(1) Both the contributory plan provided by this act and the noncontributory plan established by §§ 24-7-401 — 24-7-411 and 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716 shall be under the administration and control of the Board of Trustees of the Arkansas Teacher Retirement System as provided by § 24-7-301.

(2) It is the intent of the General Assembly that neither the composition, responsibilities, nor the authority of the board be changed as a result of §§ 24-7-401 — 24-7-411 and 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716.

(b)(1) The board shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System.

(2) In order to fully comply with federal requirements that may affect the members or the members’ benefits under this subchapter, the board may promulgate rules to:

(A) Establish the regular retirement age for members consistent with the provisions of Section 411 of the Internal Revenue Code; and

(B) Maintain the system’s retirement plan tax qualification status by the federal government to remain tax exempt and tax qualified under Section 401(a) of the Internal Revenue Code.

(c) The board shall adopt from time to time such reasonable mortality and other tables of experience and a rate or rates of regular interest as shall be necessary for the actuarial requirements of the Arkansas Teacher Retirement System.

(d) The Executive Director of the Arkansas Teacher Retirement System shall keep, or cause to be kept, in convenient form such data as shall be necessary for actuarial investigations of the experiences of the system, and such data as shall be necessary for annual actuarial valuations of the system.

(e)(1) The board shall annually, not later than April 1 of each year, render a report to each employer showing the financial condition of the system as of the preceding June 30.

(2) The report shall contain, but shall not be limited to:

(A) A financial balance sheet;

(B) A statement of income and disbursements;

(C) A detailed statement of investments acquired and disposed of during the year, together with a detailed statement of the annual rates of investment income from all assets and from each type of investment;

(D) An actuarial balance sheet prepared by means of the last valuation of the system; and

(E) Such other data as the board shall deem necessary to comply with § 24-2-702.

(3) In addition to the distribution of the report provided by this subsection, it shall also be distributed to the Legislative Council and to the Governor.

(f) All records of the system shall be kept and maintained in the office of the system.

(g)(1) The board shall arrange for adequate surety bonds covering the executive director and any other custodian of the funds or investments of the board.

(2) When approved by the board, the bonds shall be deposited in the office of the Treasurer of State.

(h) The records and accounts of the system shall be audited by the Division of Legislative Audit.

(i) The headquarters of the system shall be in Little Rock.

History. Acts 1973, No. 427, § 3; 1983, No. 619, § 2; 1983, No. 665, § 2; 1985, No. 504, § 1; A.S.A. 1947, § 80-1438; Acts 1993, No. 403, § 18; 2005, No. 385, § 1; 2007, No. 97, § 4; 2009, No. 745, § 2.

Amendments. The 2007 amendment inserted present (b) and redesignated the

remaining subsections accordingly; and deleted "as provided by § 24-2-702" at the end of (e)(3);

The 2009 amendment inserted (b)(2) and redesignated the remaining text of (b) accordingly.

SUBCHAPTER 4 — ARKANSAS TEACHER RETIREMENT SYSTEM — FUNDS AND MANAGEMENT OF ASSETS

SECTION.

24-7-401. Fund contributions — Fund rates.

24-7-402. Assets as trust fund — Custodian.

24-7-404. Default where issuer receives money from State of Arkansas.

24-7-405. Retirement fund assets accounts generally.

SECTION.

24-7-406. Retirement fund assets accounts — Members' deposit account — Contributions.

24-7-410. Retirement fund assets accounts — Income-expense account.

24-7-411. Compelling payment upon delinquency of employer.

Effective Dates. Acts 2001, No. 155, § 5: Applies retroactively to January 1, 2001.

Acts 2001, No. 155, § 7: February 8, 2001. The emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that provisions of the Arkansas Teacher Retirement System law need to be reconciled with federal tax laws; that these changes should take place retroactively to January

1, 2001; and that this act should have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If

the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 385, § 10: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system; that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort; that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 1968, § 3: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain changes are necessary to allow the Arkansas Teacher Retirement System to set employer contribution rates; that the members of the system will benefit from these changes; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform mea-

asures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 93, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System regarding contributory and noncontributory status require revision; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 97, § 19: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System require technical revisions; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 467, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension

policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2009, No. 468, § 28: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pension policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 41, § 3: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are badly in need of revision and updating to bring them into conformance with sound public pension policy; that this and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System assets and accounting are complex and the system must be able to create accounts as needed to appropriately manage the system's funds; that the members' contributions are received in the members' deposit account and the interest is calculated and credited to the member from another account; that the law as currently enacted regarding members' deposit accounts does not accurately reflect the accounting of the contributions and the calculation of interest due; and that this act is immediately necessary to maintain an orderly

system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 45, § 22: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System assets and accounting are complex, and the system must be able to appropriately manage the system members accounts and benefits; that many of these technical corrections are currently the policy of the Board of Trustees of the Arkansas Teacher Retirement System and should be codified to reflect that policy; and that this act is immediately necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 69, § 22: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to mem-

bers of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that a member's purchase of service credit currently provides that a member pay the system yesterday's dollars for the value of today's benefits; that such a valuation is unfair to the members as a whole and inconsistent with the prudent management of the system's funds and obligations; that the purchase of service credit in the system should be based upon actuarial equivalents; that the purchase of service credit should be paid in a lump sum to the system; that current

service purchase accounts remain unpaid and inactive for many years at a time and create an administrative burden and accounting difficulty on the system that can be remedied by the passage of this act; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

24-7-401. Fund contributions — Fund rates.

(a)(1) The financial objective of the Arkansas Teacher Retirement System is to establish and receive contributions that expressed as percentages of active member payroll will remain approximately level from generation to generation of Arkansas citizens.

(2) Contributions received each year shall be sufficient:

(A) To fully cover the costs of benefit commitments being made to members for their service being rendered in that year; and

(B) To make a level payment that if paid annually over a reasonable period of future years will fully cover the unfunded costs of benefit commitments for service previously rendered.

(3) If the costs of benefit commitments for service previously rendered are overfunded, the plan may deduct a level payment that if deducted annually over a reasonable period of future years will fully liquidate the overfunded portion of the costs.

(b) An actuarial valuation of the entire system shall be made at least annually by the Board of Trustees of the Arkansas Teacher Retirement System's actuary.

(c)(1) For each fiscal year, the Board of Trustees of the Arkansas Teacher Retirement System shall establish employer contribution rates for the system prospectively and for each fiscal year thereafter.

(2) The employer contribution rates shall be based on the actuary's determination of the rate required to fund the plan in accordance with the objectives stated in subsection (a) of this section.

(3) The employer contribution rates shall be the rates determined by the board based on the annual actuarial valuation.

(4) For the fiscal years ending June 30, 2008, and June 30, 2009, and in each fiscal year thereafter, the employer contribution rate shall not exceed fourteen percent (14%).

(d) The employer contribution rate shall be such that the amortization period for all unfunded liability shall not exceed thirty (30) years. However, under no circumstance shall the required employer contribution rate exceed the maximum percentage rate under subdivision (c)(4) of this section.

(e)(1) The board shall annually notify the participating employers of the employer contribution rate established by the board for the upcoming fiscal year.

(2) Local school districts shall pay the teacher retirement employment contribution for any eligible employee in accordance with rules established by the board.

(3) The Department of Education shall pay from the Public School Fund the teacher retirement employer contributions for eligible employees of participating employers as required by the department's biennial appropriations act and in accordance with rules established by the board.

(4) The annual employer contributions to be paid in each year for all other employees by each participating employer shall be the current state contribution percent multiplied by the total covered salaries of the employer's members in the fiscal year.

(5) The employers' contributions shall be remitted to the system in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall prescribe from time to time.

(6) Timely payment of the contributions shall be a condition of continuance of participation in the system.

History. Acts 1973, No. 427, § 8; 1975, No. 549, § 5; 1977, No. 541, § 4; 1979, No. 681, § 2; 1981, No. 365, § 5; 1983, No. 619, § 8; 1983, No. 665, § 8; A.S.A. 1947, § 80-1442; Acts 1989, No. 472, § 1; 1991, No. 17, § 1; 1991, No. 431, § 2; 1993, No. 435, §§ 2, 3; 2005, No. 1968, § 2; 2006 (1st Ex. Sess.), No. 19, § 9; 2007, No. 403, § 2; 2009, No. 468, § 5.

A.C.R.C. Notes. House Concurrent Resolution, No. 1003, Acts 2006 (1st Ex. Sess.), provided: "WHEREAS, call item 13 allows for the consideration of bills concerning the Arkansas Teacher Retirement System employer contribution rate at the First Extraordinary Session of the 85th General Assembly; and WHEREAS, Arkansas Code § 10-2-115 and Rule 16(d) of the Joint Rules of the House of Representatives and the Senate provides that a bill affecting any publicly supported retirement system or systems shall not be introduced or considered at any special session of the General Assembly unless the introduction and consideration of the bill is first approved by a three-fourths (¾) vote of the full membership of each house of the General Assembly, NOW THEREFORE, BE IT RESOLVED BY THE

HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, THE SENATE CONCURRING THEREIN:

"That the House of Representatives and the Senate hereby authorize the introduction and consideration of bills providing that for the fiscal years ending June 30, 2006, and June 30, 2007, the Arkansas Teacher Retirement System employer contribution rate shall not exceed fourteen percent (14%)."

Amendments. The 2007 amendment substituted "2008" for "2006" and substituted "2009" for "2007" in (c)(1) and (c)(4).

The 2009 amendment, in (c), substituted "each fiscal year" for "the fiscal years ending June 30, 2008, and June 30, 2009" in (c)(1) and inserted "and in each fiscal year thereafter" in (c)(4); inserted "however under no circumstance shall the required employer contribution rate exceed the maximum percentage rate under subdivision (c)(4) of this section" in (d); substituted "participating" for "local school districts, the Department of Education, and other" in (e)(1); and made related and minor stylistic changes.

24-7-402. Assets as trust fund — Custodian.

(a) All assets of the Arkansas Teacher Retirement System shall constitute a single trust fund, and the Board of Trustees of the Arkansas Teacher Retirement System shall be the trustees of the fund.

(b)(1) The custodian of system assets shall be the Treasurer of State or other financial institutions or depositories as allowed under this subchapter.

(2) When acting as custodian of system assets, the Treasurer of State shall act in accordance with the instructions of the board.

History. Acts 1973, No. 427, § 7; 1975, No. 381, § 2; 1975, No. 839, § 2; 1977, No. 793, § 11; A.S.A. 1947, § 80-1441; Acts 2009, No. 468, § 6.

Amendments. The 2009 amendment subdivided (b), inserted “or other financial

institutions or depositories as allowed under this subchapter” in (b)(1), substituted “When acting as custodian of system assets, the Treasurer of State” for “who” in (b)(2), and made a related change.

24-7-404. Default where issuer receives money from State of Arkansas.

In the event of default in payment of the principal or interest of any investment obligation held by the Arkansas Teacher Retirement System where the issuer of the obligation receives moneys from the State of Arkansas, the default shall be certified by the Board of Trustees of the Arkansas Teacher Retirement System to the Treasurer of State, who shall withhold all moneys due the issuer from the State of Arkansas until the default, together with interest thereon, is satisfied.

History. Acts 1973, No. 427, § 7; 1975, No. 381, § 2; 1975, No. 839, § 2; 1977, No. 793, § 11; A.S.A. 1947, § 80-1441; Acts 2011, No. 45, § 2.

Amendments. The 2011 amendment deleted “regular” preceding “interest thereon.”

24-7-405. Retirement fund assets accounts generally.

The assets of the Arkansas Teacher Retirement System shall be recorded in accounts established by the Board of Trustees of the Arkansas Teacher Retirement System, as necessary, to manage the system’s fund assets.

History. Acts 1973, No. 427, § 8; A.S.A. 1947, § 80-1442; Acts 2011, No. 41, § 1.

Amendments. The 2011 amendment rewrote the section.

24-7-406. Retirement fund assets accounts — Members’ deposit account — Contributions.

(a)(1) The members’ deposit account is the account:

(A) In which member contributions are accumulated;

(B) From which member refunds of contributions are paid; and

(C) From which transfers are made as provided in this act.

(2) Employer contributions that are paid by an employee instead of an employer shall be:

(A) Credited to the members' deposit account; and

(B) Subject to refund under the same conditions that regular member contributions are refunded.

(3) In the event survivor benefits become payable on account of the death of a member, his or her accumulated contributions standing to his or her credit in the members' deposit account shall be transferred to the survivor benefit account.

(b)(1) Except as provided otherwise in this section, the contributions of a member to the system shall be the amounts set forth in this subsection.

(2) Each member who first became a member July 1, 1971, or later shall contribute to the system six percent (6%) of his or her salary.

(3) Member contributions before July 1, 1969, shall be in accordance with provisions in force before July 1, 1969.

(4)(A) For each member who first became a member before July 1, 1971, member contributions for the period after June 30, 1969, shall be six percent (6%) of the first seven thousand eight hundred dollars (\$7,800) of his or her annual salary unless he or she shall have elected, in accordance with rules and regulations established by the Board of Trustees of the Arkansas Teacher Retirement System, to contribute six percent (6%) of his or her full salary for the period after June 30, 1969.

(B) If the election is made before July 1, 1984, the member shall contribute to the Arkansas Teacher Retirement System the difference between full salary member contributions and member contributions based on seven thousand eight hundred dollars (\$7,800) annual covered salary retroactive to July 1, 1969, or to the actual date of employment, whichever is later, by paying the actuarial equivalent of the member's benefits to the system.

(C) If the election is made July 1, 1984, or later, the member shall contribute to the system both the added member contributions and the added employer contributions that would have been paid to the system if the member's full salary always had been covered by paying the actuarial equivalent of the member's benefits to the system.

(D) The interest and added employer contributions shall be considered member contributions for purposes of the system. However, any former active member who returns to covered employment on or after July 1, 1995, and who elects to make contributions to the system, shall contribute on his or her full salary.

(5) Members who left covered employment before July 1, 1985, and who had annual compensation of seven thousand eight hundred dollars (\$7,800) or less shall have, upon their return to covered employment, full salary considered for purposes of the system.

(6) Contributions shall be required on all salary earned in covered employment during the fiscal year in which membership begins.

(c)(1)(A) Each employer shall deduct the member contributions provided for in this section from the salary of each member on every

payroll, for every payroll period, from the date of his or her entrance into the system until the member retires or terminates, and the employer shall remit the contributions to the system.

(B)(i) Before July 1, 2011, if the employer fails to report the required service of a member and remit the contributions to the system, the system shall have the right to collect from the employee and the employer the contributions due, if any, from each, together with interest beginning with the subsequent fiscal year if the unreported service is within the look-back period under § 24-7-205.

(ii) If the unreported service is not within the look-back period, the unreported required service shall be considered an optional purchase of service and the actuarial equivalent of the member's benefits due to the system shall be required by the member.

(iii) A member shall not be given credit for service rendered until all service is paid in full.

(2) The member's contributions provided for in this section shall be made notwithstanding that the minimum salary provided by law for any member shall be thereby changed.

(3)(A) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(B) Payment of his or her salary less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by the payment, except as to benefits provided by the system.

(4) The members' contributions, so deducted from their salaries, shall be remitted to the system in such manner and form and into such frequency and shall be accompanied by such supporting data as the board shall prescribe from time to time.

(d)(1) In addition to the contributions deducted from the salaries of a member, as provided in this section, a member may restore contributory, noncontributory, and any other service credit forfeited in a member termination refund by paying the actuarial equivalent of the member's benefits.

(2) A member shall not be given credit for service rendered before the date the member received a refund of contributions until the member returns to the system all amounts due from the member.

(e)(1)(A) Active members as of July 1, 1999, shall elect by written election filed with the system in accordance with rules and regulations adopted by the board to eliminate future member contributions or to make member contributions, otherwise provided for in this section.

(B)(i) The election shall be irrevocable and shall be made on or before July 1, 2000.

(ii) If no election is made, then the member's status on June 30, 2000, shall be in effect and shall be irrevocable.

(2)(A) For an inactive member who enters the system after June 30, 1999, the election shall be made within one (1) year of the effective date the member is considered an active member.

(B)(i) The election shall be effective the earlier of:

(a) The preparation of the payroll containing the first salary payment upon reentry; or

(b) The July 1 next following the date the election is filed with the system.

(ii) If no election is made within one (1) year, then the member's status prior to reentry will remain in effect.

(3)(A)(i) If the election is to eliminate member contributions, then the election shall apply only to future member salaries and shall not change the status of any member contributions made before the election.

(ii) Beginning July 1, 1999, an active member who has previously elected to eliminate member contributions may change credited service on which no member contributions have been paid to contributory credited service by paying the actuarial equivalent of the member's benefits to the system.

(B)(i) If the effect of the election is to require member contributions, then the election shall apply only to future member salaries and shall not change any member contribution requirements existing before the election.

(ii) If a member has previously contributed on only the first seven thousand eight hundred dollars (\$7,800) of his or her annual salary, then he or she cannot contribute on full future salaries until he or she has made added contributions on past full salaries as provided in subsection (b) of this section.

(4)(A)(i) After July 1, 1999, all new members shall make the member contributions otherwise provided for in this section. From July 1, 1999, through June 30, 2007, new members who are under contract with a covered employer for one hundred eighty (180) days or less shall have one (1) year to make an irrevocable election to make member contributions.

(ii) Effective July 1, 2005, any active member whose status later changes from nonteacher status to teacher status under contract for one hundred eighty-one (181) days or more shall make the member contributions otherwise provided for in this section regardless of an earlier election to be noncontributory.

(B) Through June 30, 2007, new members who are not under contract with a covered employer shall not make member contributions.

(5)(A) From July 1, 2005, and each July 1 thereafter through June 30, 2007, active members who have previously elected to eliminate member contributions may make an irrevocable election to make future contributions to the system.

(B) If the election is made:

(i) Before the preparation of the first salary payment to the member in the fiscal year, the election shall become effective immediately; and

(ii) After the preparation of the first payroll containing the first salary payment to the member in the fiscal year, the election shall become effective July 1 of the next fiscal year.

(6)(A)(i) Effective July 1, 2007, new members who are under contract with a covered employer for one hundred eighty-one (181) days or more shall make member contributions under this section.

(ii) Effective July 1, 2007, persons reentering the system who left as contributory members shall reenter as contributory members and shall make member contributions under this section.

(B)(i) Effective July 1, 2007, new members who are under contract with a covered employer for one hundred eighty (180) days or less and new members who are not under contract with a covered employer may make an irrevocable election to make future member contributions under this section.

(ii) Effective July 1, 2007, and each July 1 thereafter, active members who have previously been noncontributory, whether by election or otherwise, may make an irrevocable election to make future member contributions under this section.

(iii) Effective July 1, 2007, inactive members or rescinding retirees reentering the system may make an irrevocable election to make future member contributions under this section at the time of reemployment regardless of previous noncontributory status.

(iv) If the election is made:

(a) Before the preparation of the first salary payment to the member in the fiscal year, the election shall become effective immediately; and

(b) After the preparation of the first payroll containing the first salary payment to the member in the fiscal year, the election shall become effective July 1 of the next fiscal year.

(C) If the board determines that a member's contributions may not be treated as employer contributions under the Internal Revenue Code or the Income Tax Act of 1929, § 26-51-101 et seq., the board may exclude the member's participation under this subsection.

(f)(1) Employees who are eligible for membership in the system under § 24-7-202, who are or have been erroneously enrolled in the Arkansas Public Employees' Retirement System, whose membership in that system is cancelled, and whose employee or employer contributions are refunded by that system under §§ 24-2-301 — 24-2-305, shall make member contributions to the system as provided in subdivision (b)(2) of this section.

(2) If such an employee becomes an active member of the contributory plan of this system, he or she may establish contributory service credit for all or part of his or her service that is cancelled by the system by paying the actuarial equivalent of the member's benefits to the system.

(g)(1)(A) Each employer shall pay the member contributions under this section from the salary earned by a member after June 30, 1997, and those contributions shall then be treated as employer contribu-

tions in determining tax treatment under the provisions of the Internal Revenue Code and the Income Tax Act of 1929, § 26-51-101 et seq.

(B) For service purchase accounts established before July 1, 2011, that have an irrevocable payroll authorization established before July 1, 2012, or for accounts established by the system to allow a member to make payments on unreported or incorrectly reported contributory service, a member may elect to establish past service through payroll deductions, and the employer shall pay the amount required to establish the past service from the employee's salary earned after the employee signs an irrevocable payroll authorization prescribed by the board, and those payments shall then be treated as employer contributions in determining tax treatment under the Internal Revenue Code, as it existed on January 1, 2011, and the Income Tax Act of 1929, § 26-51-101 et seq.

(2) Each employer shall continue to withhold federal and state income taxes based upon those contributions as income of the member until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, the contributions shall not be included as gross income of the member until they are distributed or made available to the member.

(3) The employer shall pay these member contributions from the same source of funds used in paying the salary to the member. The employer may pay these contributions by a reduction in the cash salary of the member, by a setoff against future salary increases, or by a combination of a reduction in salary and a setoff against future salary increases.

(4) If member contributions are paid by the employer as provided under this subsection, they shall be treated for all purposes of the system in the same manner and to the same extent possible as member contributions made prior to the date the employer began payment of the member's contributions hereunder.

(5) Whenever member contributions are required to be paid by the employer under this subsection, the employee shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer.

History. Acts 1973, No. 427, § 8; 1975, No. 549, § 4; 1977, No. 541, § 3; 1981, No. 365, § 4; 1981, No. 435, § 1; 1983, No. 619, § 7; 1983, No. 665, § 7; 1985, No. 504, § 2; 1985, No. 805, § 5; A.S.A. 1947, § 80-1442; Acts 1989, No. 821, § 8; 1989, No. 652, § 3; 1991, No. 14, § 1; 1991, No. 43, § 2; 1993, No. 435, §§ 4, 5; 1995, No. 460, § 2; 1995, No. 542, §§ 2, 3; 1997, No. 206, § 1; 1997, No. 393, § 1; 1999, No. 11, § 2; 1999, No. 81, §§ 1, 2; 1999, No. 864, § 1; 1999, No. 907, §§ 1, 2, 4; 2001, No. 155, § 3; 2003 (2nd Ex. Sess.), No. 23, § 1; 2003 (2nd Ex. Sess.), No. 47, § 1; 2005,

No. 385, § 2; 2007, No. 93, § 1; 2009, No. 468, §§ 7-9; 2011, No. 41, § 2; 2011, No. 69, §§ 5-10.

A.C.R.C. Notes. The amendment of this section by Acts 2009, No. 468, § 8, omitted former subdivisions (c)(1)(A)(ii) and (c)(1)(B) without striking through the language to indicate the repeal of that language.

Amendments. The 2007 amendment redesignated former (c)(1)(A) as (c)(1)(A)(i); deleted former (e) and redesignated the following subsections accordingly; substituted "From July 1, 1999,

through June 30, 2007” for “However” at the beginning of (e)(4)(A)(i); added “Through June 30, 2007” at the beginning of (e)(4)(B); in (e)(5)(A), substituted “From” for “Effective” at the beginning and inserted “through June 30, 2007”; added (e)(6)(A) and (B); redesignated former (e)(5)(C) as (e)(6)(C); and substituted “(e)” for “(f)(5)” at the end of (e)(6)(C).

The 2009 amendment subdivided (a)(1); inserted “or terminates:” in (c)(1)(A)(i); inserted “to reestablish credit for refunded service” in (d)(1); substituted “the system’s purchase of service credit provisions” for “§ 24-7-501(b), § 24-7-502(b)(5), § 24-7-610, § 24-7-611, or §§ 24-7-602 - 24-7-607” in (g)(1)(B); and made related and minor stylistic changes.

The 2011 amendment by No. 41 deleted “with regular interest” from the end of (a)(1)(A).

The 2011 amendment by No. 69 substituted “shall contribute to the Arkansas Teacher Retirement System” for “must contribute to the system” in (b)(4)(B); substituted “by paying the actuarial equivalent of the member’s benefits to the system” for “plus interest from the dates the added contributions would normally have been received by the system to the date of the actual added contributions” in (b)(4)(B) and (C); in (c)(1)(B)(i), substituted “Before July 1, 2011, if the employer fails to report the required service” for “Should the employer fail at any time to report the salary” and added “if the unre-

ported service is within the look-back period under § 24-7-205”; inserted present (c)(1)(B)(ii) and redesignated former (c)(1)(B)(ii) as (c)(1)(B)(iii); substituted “service is” for “contributions and interest due from each are” in present (c)(1)(B)(iii); substituted “restore contributory, noncontributory, and any other service credit forfeited in a member termination refund by paying the actuarial equivalent of the member’s benefits” for “deposit into the system, by a single contribution or by an increased rate of contributions as approved by the board, the amounts the member received in a refund of contributions and not repaid, together with interest from the date of withdrawal to the date of repayment to reestablish credit for refunded service” in (d)(1); substituted “contributory credited service by paying the actuarial equivalent of the member’s benefits to the system” for “member contributions credited service by paying the additional member contributions due plus interest from the dates the contributions would have been received by the system to the date of the payment in full” in (e)(3)(A)(ii); in (f)(2), inserted “service” following “establish contributory” and substituted “the actuarial equivalent of the member’s benefits to the system” for “both the employee and employer contributions required by this system plus interest”; and rewrote (g)(1)(B).

U.S. Code. The Internal Revenue Code, referred to in (f)(5)(C), is codified as 26 U.S.C. § 1 et seq.

24-7-410. Retirement fund assets accounts — Income-expense account.

(a) The income-expense account shall be the account to which shall be credited all investment income from invested assets of the Arkansas Teacher Retirement System. It shall also be the account in which shall be accumulated the contributions made by employers for the administrative expenses of the system and from which shall be made annual transfers of interest credits to the other accounts of the system and from which shall be paid all the expenses of the Board of Trustees of the Arkansas Teacher Retirement System necessary for the administration and operation of the system.

(b) The board may accept gifts and bequests, which shall be credited to the income-expense account along with all other moneys received by the system the disposition of which is not specifically provided for in this act.

(c) Each year, the General Assembly shall appropriate the amounts of money certified by the board as required to pay the proper administrative expenses of the system.

(d)(1) At the end of each system fiscal year, the board shall credit each person's individual account in the members' deposit account with regular interest on the mean balance in the account for the fiscal year.

(2) At the end of each system fiscal year, the board shall credit the employer accumulation account with regular interest on the mean balance in the account for the fiscal year and similarly shall credit regular interest to the retirement reserve account and to the survivor benefit account.

(3) The interest credits shall be transferred from the income-expense account.

(e) Whenever the board determines that the balance in the income-expense account is more than sufficient to cover the current charges to the account, the board may, by resolution, provide for contingency reserves, or for the transfer of the excess, or portions thereof, to cover the needs of the other accounts of the system.

History. Acts 1973, No. 427, § 8; 1979, No. 681, § 4; 1983, No. 619, § 12; 1983, No. 665, § 12; A.S.A. 1947, § 80-1442; Acts 2009, No. 962, § 43.

in (c), added "Each year," deleted "for each biennium at each regular session" preceding "appropriate" and made related changes.

Amendments. The 2009 amendment,

24-7-411. Compelling payment upon delinquency of employer.

(a)(1) If any participating employer fails to remit to the Arkansas Teacher Retirement System contributions that are required by law or regulation by the fifteenth day of the month in which the moneys are due, then the system shall impose an interest penalty of six percent (6%) per annum with a daily interest accrual.

(2) For purposes of this subsection, an employer's remittance is not delinquent if the employer's remittance is:

(A) Received by the system by the fifteenth day of the month in which the payment is due; or

(B) Postmarked by the fourteenth day of the month in which the payment is due.

(3) The interest penalty shall be determined by the system on the date the delinquent funds are received, and a statement of the interest penalty shall be sent to the participating public employer.

(4) If the interest penalty or delinquent moneys are not received by the system by the last business day of the month in which the moneys were originally due, then the system shall cause the sums of moneys, including the interest penalty, to be transferred from any moneys due the participating employer from the Treasurer of State and the Department of Education as provided in § 19-5-106(a)(5).

(5) This interest penalty shall be computed on the actual days of delinquency and shall be paid to the system to reimburse the trust fund

for the money that would have been earned on the moneys had they been paid when due.

(b)(1) If a participating employer fails to file with the system a report required by the Board of Trustees of the Arkansas Teacher Retirement System by the fifteenth day of the month in which the report is due, then the system shall impose a penalty of one hundred fifty dollars (\$150) for each late report.

(2) For purposes of this subsection, a report is not late if the report is:

(A) Received by the system by the fifteenth day of the month in which the report is due; or

(B) Postmarked by the fourteenth day of the month in which the report is due.

(3) A statement of the penalty shall be sent to the participating employer.

(4) If the penalty is not received by the last business day of the month in which the report was due, then the system shall cause the penalty amount to be transferred from any moneys due the participating employer from the Treasurer of State and the Department of Education as provided in § 19-5-106(a)(5).

(5) The penalty amounts collected shall be deposited to the credit of the administrative funds of the system to help defray the cost of additional expenses incurred due to the additional work required to process late reports.

(c) The board or its designee may waive penalties and interest for an employer delinquency under this section if the board or its designee finds that:

(1) The delinquency was not the result of the employer's nondisclosure, fraud, or misrepresentation; and

(2) Under the circumstances, requiring payment of the delinquency by the employer would be unduly penal, burdensome, or result in a manifest injustice.

History. Acts 1973, No. 427, § 8; A.S.A. 1947, § 80-1442; Acts 1993, No. 300, § 1; 2007, No. 97, § 5; 2009, No. 467, § 1.

Amendments. The 2007 amendment inserted "penalty" following "interest" throughout (a); and deleted "penalty of" preceding "six percent" in (a)(1).

The 2009 amendment, in (a), substituted "an interest penalty of six percent

per annum with a daily interest accrual" for "a six percent (6%) interest penalty on an annual basis on the moneys due" in (a)(1), and subdivided (a)(2); in (b), substituted "a report required by the board" for "the retirement report" in (b)(1), and subdivided (b)(2); added (c); and made related and minor stylistic changes.

SUBCHAPTER 5 — ARKANSAS TEACHER RETIREMENT SYSTEM — MEMBERSHIP

SECTION.

24-7-501. Membership generally.

24-7-502. Termination of active membership.

SECTION.

24-7-504. [Repealed.]

Effective Dates. Acts 2001, No. 155, § 5: Applies retroactively to January 1, 2001.

Acts 2001, No. 155, § 7: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that provisions of the Arkansas Teacher Retirement System law need to be reconciled with federal tax laws; that these changes should take place retroactively to January 1, 2001; and that this act should have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 742, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that nonteaching employees of Arkansas school districts have more in common with fellow educational employees than with public employees; that allowing the nonteaching employees to earn service credit in the Teacher Retirement System will promote more effective use of educational funds in Arkansas; and that in order to promote the proper operation of the school districts these laws need to be effective at the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective beginning July 1, 2001."

Acts 2001, No. 1146, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that retirants of the Teacher Retirement System are sometimes needed by the public schools of Arkansas to fill vital positions within the educational system of Arkansas; that the current retirement law limits the amount of salary which can be paid to a retiree and the law needs to provide that a teacher may return to active employment after retirement; and that the most effec-

tive time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 146, § 4: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System are unclear regarding certain eligibility and benefit requirements; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 97, § 19: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System require technical revisions; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 743, § 8: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this

act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 45, § 22: Feb. 16, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System assets and accounting are complex, and the system must be able to appropriately manage the system members accounts and benefits; that many of these technical corrections are currently the policy of the Board of Trustees of the Arkansas Teacher Retirement System and should be codified to reflect that policy; and that this act is immediately necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 69, § 22: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that a member’s purchase of service credit currently provides that a member pay the system yesterday’s dollars for the value of today’s benefits; that such a valuation is unfair to the members as a whole and inconsistent with the prudent management of the system’s funds and obligations; that the purchase of service credit in the system should be based

upon actuarial equivalents; that the purchase of service credit should be paid in a lump sum to the system; that current service purchase accounts remain unpaid and inactive for many years at a time and create an administrative burden and accounting difficulty on the system that can be remedied by the passage of this act; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 565 § 3: Mar. 22, 2011: Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that recent reports indicate that some members of the Arkansas public retirement systems were merely taking themselves off of the payroll for the specified period of time while continuing to perform their duties so that they could draw retirement in addition to their wages; that clarification is needed to prevent this from happening; and that this clarification is needed immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 974, § 9: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are urgently in need of revision and updating to bring them into conformance with sound public pension policy; that revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the school year calendar has historically been expanding with the addition of teacher service requirements and other legislative initiatives while the number of days of service has remained unchanged

since the 1970s; that this legislation is necessary to account for the changes in teacher service requirements and to make the retirement system more reflective of the actual number of days of service; and that this act is necessary to maintain an orderly system of benefits for the mem-

bers of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

24-7-501. Membership generally.

(a) The membership of the Arkansas Teacher Retirement System shall include the following persons:

(1) All teachers who last began service on or after July 1, 1971, and whose service is not covered by another retirement plan similar in purpose to the Arkansas Teacher Retirement System, except social security; and

(2)(A) All nonteachers who begin nonteaching service on or after July 1, 1989, and whose nonteaching service is not covered by another retirement plan similar in purpose to the Arkansas Teacher Retirement System, except social security.

(B)(i) All nonteachers who began nonteaching service before July 1, 1989, whose nonteaching service is covered or coverable by the Arkansas Public Employees' Retirement System shall continue to be covered by the Arkansas Public Employees' Retirement System for all nonteaching service, both past and future, unless the nonteacher elects to have the nonteaching service after July 1, 2001, covered by the Arkansas Teacher Retirement System under subdivision (a)(2)(C) of this section.

(ii) These nonteachers who began service before July 1, 1989, shall be considered members of a closed system to be administered by the Arkansas Public Employees' Retirement System.

(iii) The employer contribution rate for this closed system shall be established at a rate necessary to fund all present and future liabilities until such time as there are no longer members, retirants, or deferred annuitants;

(C)(i) Beginning July 1, 2001, and each July 1 of each year thereafter, nonteachers who participate in the Arkansas Public Employees' Retirement System may elect to become members of the Arkansas Teacher Retirement System.

(ii) Service credit while a member of the Arkansas Public Employees' Retirement System cannot be established in the Arkansas Teacher Retirement System.

(iii) The election to withdraw from the Arkansas Public Employees' Retirement System and become a member of the Arkansas Teacher Retirement System shall be made by May 31, 2001, or by May 31 of each year thereafter, and notice of the election shall be made in writing and filed with the Arkansas Teacher Retirement System.

(iv) The election to participate in the Arkansas Teacher Retirement System shall be irrevocable.

(v) Nonteachers who elect coverage in the Arkansas Teacher Retirement System under the provisions of this section and who accumulate five (5) or more years of credited service in the Arkansas Teacher Retirement System will be eligible for benefits as provided in § 24-7-713(b).

(b)(1) A person who has excluded himself or herself from membership before July 1, 1991, may rescind the exclusion by filing with the system a membership data form.

(2) The rescission shall be effective July 1 of the fiscal year in which it is exercised.

(3) At the direction of the person, the membership may be prospective only, or both prospective and retroactive.

(4)(A) Before July 1, 2011, for the membership to be retroactive, the member shall pay to the system both the member contributions and the employer contributions that would have been paid to the system if there had been no exclusion, plus interest from the effective date of the excluded service to the date of payment in full.

(B) On or after July 1, 2011, excluded service may be established by paying the actuarial equivalent of the member's benefits to the system.

(c) In any case of question as to the system membership status of any person, the Board of Trustees of the Arkansas Teacher Retirement System shall have the final power to decide the question.

(d)(1) Membership in the system shall be a condition of employment under subsections (a) and (b) of this section.

(2) However, except as provided in this section, individual members who are employed for less than one-fourth ($\frac{1}{4}$) of a fiscal year under § 24-7-601 shall not be eligible for any credit or benefit in the system.

History. Acts 1973, No. 427, § 4; 1975, No. 549, § 2; 1977, No. 541, § 1; 1983, No. 619, § 3; 1983, No. 665, § 3; A.S.A. 1947, § 80-1439; Acts 1987, No. 314, § 1; 1989, No. 652, § 4; 1989, No. 653, § 2; 1991, No. 43, § 3; 1993, No. 1206, § 1; 2001, No. 742, § 1; 2007, No. 97, § 6; 2011, No. 69, § 11; 2011, No. 974, § 1.

Amendments. The 2007 amendment deleted (a)(1) and (a)(4)(a); inserted (c)(iv); redesignated the remaining sections; replaced "except if the nonteacher elects coverage under the Arkansas Teacher Retirement System in accordance with subdivision (a)(4) of this section" with "unless the nonteacher elects to have the non-teaching service after July 1, 2001, covered by the Arkansas Teacher Retirement System under subsection (a)(2)(C) of this section" in (a)(2)(B)(i); replaced "dates the contributions would normally have been

received by the system to the date of payment" with "effective date of the excluded service to the date of actual payment in full" in (b)(4); replaced "employees who accumulate" with "members who are employed for" and inserted "and any employee contributions made by the member during that period shall be refunded by the system" in (d)(2); and made related changes.

The 2011 amendment added by No. 69 added the (b)(4)(A) designation and (b)(4)(B); and added "Before July 1, 2011" at the beginning of (b)(4)(A).

The 2011 amendment by No. 974, in (d)(2), substituted "However, except as provided in this section" for "Provided, however," substituted "one-fourth ($\frac{1}{4}$) of a fiscal year under § 24-7-601" for "thirty (30) days within a fiscal year," and deleted "and any employee contributions made by

the member during that period shall be refunded by the system" at the end.

24-7-502. Termination of active membership.

(a)(1) A member of the Arkansas Teacher Retirement System shall terminate covered employment and remain terminated during the member's applicable termination separation period to become and remain eligible for retirement.

(2)(A) Effective July 1, 2011, a member shall not be terminated from employment for purposes of retirement eligibility if within six (6) calendar months of the member's effective date of retirement the member:

(i) Meets both of the following requirements:

(a) Becomes employed with an employer covered by the system; and

(b) Has not attained the system's normal retirement age; or

(ii) Does not have total or a combined total of thirty-eight (38) years or more of credited service in the system, T-DROP, or reciprocal service in another eligible state retirement system.

(B) If a member has a combined total of thirty-eight (38) years or more of credited service in the system, T-DROP, or reciprocal credited service in another eligible state retirement system, then the member shall not be terminated from employment for purposes of retirement eligibility if within one (1) calendar month of the member's effective date of retirement the member:

(i) Becomes employed with an employer covered by the system; and

(ii) Has not attained the system's normal retirement age.

(3) A member who fails to meet both the termination requirement and the termination separation period requirement of this subsection shall:

(A) Repay retirement benefits paid during the period the member did not meet the requirements; and

(B) Forfeit all future retirement benefits until the member files a new completed retirement application using the standard system process.

(4) The system may require the repayment of retirement benefits, interest, and distributions from the member directly or indirectly by using the system's standard withholding rule.

(5) If a member fails to meet the termination requirement or to complete the termination separation period, then the member is not eligible to receive retirement benefits until the member files a new completed retirement application using the standard system process. The member shall be subject to a new termination separation period.

(6) During the termination separation period, the member shall remain terminated and shall not:

(A) Form an employment relationship with any system-covered employer;

(B) Render any compensable services to or on behalf of any system-covered employer, except that a member may provide volunteer activities at a system-covered employer that does not have the effect of holding a position open for the member during a termination separation period; and

(C) Exercise any authority to act as a representative of any system-covered employer or exercise any authority over employees of any system-covered employer.

(b)(1) When a member is no longer employed by an employer in a position covered by the system, the person shall cease to be an active member of the system.

(2) If an inactive member has not retired and later becomes reemployed by an employer in a position covered by the system, the member shall become an active member and be eligible to accrue additional service credit.

(3) If the member's service credit during reemployment is less than one-fourth ($\frac{1}{4}$) of a fiscal year under § 24-7-601, he or she shall be considered to be an inactive member at the termination of the reemployed service, and the only monthly benefits payable shall be those provided by § 24-7-707.

(4)(A)(i) Before July 1, 2011, an active member shall receive credit for any previous unreported service after July 1, 1937, by paying the system the employee and employer contributions in effect during the previous service, together with interest from the dates of the service to the date of payment in full.

(ii) On or after July 1, 2011, previous unreported service rendered after July 1, 1937, may be established by paying the actuarial equivalent of the member's benefits to the system.

(B) For previous service rendered before July 1, 1971, service credit shall be permitted for service in a fiscal year only if the minimum days of service rendered is sufficient for one (1) year of service credit under § 24-7-601 in a fiscal year.

(c) Upon a member's retirement, the person shall cease to be an active member and, except as otherwise provided in this act, he or she shall not accrue additional service credit or make contributions to the system.

(d) As used in this section:

(1) "System-covered employer" means all employers as defined in § 24-7-202(13) and also includes all employers offering the Arkansas Teacher Retirement System as an optional retirement plan on or before January 1, 2011, to any employee;

(2)(A) "Terminate" means:

(i) The member's employment has ended at all system-covered employers;

(ii) A complete severance of the employer-employee relationship has occurred at all system-covered employers;

(iii) The member has ceased performing any employment services for any system-covered employer, except for uncompensated func-

tions related to the transfer of the duties or the transfer of the position of the member;

(iv) The member has not formed any express or implied employment agreement or taken action that would obligate the member to render compensable services to a system-covered employer or entitle a system-covered employer to the services of the member after the termination separation period;

(v) The member has followed normal retirement procedures for resigning from the system-covered employer unless involuntarily terminated before the member's effective date of retirement; and

(vi) All system-covered employers have paid or have initiated the process to pay all accumulated benefits such as annual leave and sick leave to the member by the effective date of retirement.

(B) "Terminate" does not mean:

(i) Taking a leave of absence; or

(ii) Performing any job duties or services without remuneration, except for the functions related to the transfer of duties or the transfer of the position itself.

(C) Providing volunteer activities at a system-covered employer that does not have the effect of holding a position open for the member during a termination separation period does not mean that the member is not terminated; and

(3) "Termination separation period" means the time from a member's effective date of retirement until the date that the member is no longer prohibited by state law from returning to work at a system-covered employer.

History. Acts 1973, No. 427, § 6; 1975, No. 549, § 3; 1977, No. 541, § 2; 1981, No. 365, § 3; 1983, No. 619, § 6; 1983, No. 665, § 6; A.S.A. 1947, § 80-1440.3; Acts 1989, No. 652, § 5; 1993, No. 435, § 6; 1995, No. 542, § 4; 2001, No. 1146, § 1; 2007, No. 97, § 7; 2009, No. 743, § 1; 2011, No. 45, § 3.; 2011, No. 69, § 12; 2011, No. 565, §§ 1, 2; 2011, No. 974, § 2.

Publisher's Notes. Pursuant to § 1-2-207, subdivision (b)(4) is set out above as amended by Acts 2011, No. 974. As amended by Acts 2011, No. 69, subdivision (b)(4) read as follows: "(A) Before July 1, 2011, an active member shall receive credit for any previous unreported service after July 1, 1937, by paying the system the employee and employer contributions in effect during the previous service, together with interest from the dates of the service to the date of payment in full.

"(B) On or after July 1, 2011, previous unreported service rendered after July 1, 1937, may be established by paying the actuarial equivalent of the member's benefits to the system.

"(C) For previous service rendered before July 1, 1971, service credit shall be permitted for service in a fiscal school year only if at least one hundred sixty (160) days of service were rendered in the fiscal school year."

Amendments. The 2007 amendment deleted (b)(1)(B), (b)(4), (b)(5)(B) and (c)(2); redesignated remaining sections accordingly; replaced "former active member" with "inactive member" and "upon reemployment" with "and is eligible to accrue additional service credit" in (b)(2); deleted "If the member becomes reemployed from inactive member status, the person shall immediately begin adding to his or her previous credited service. However," from (b)(3); deleted "In addition to the forfeited credited service, the" in (b)(4)(A); replaced "again become a member of" with "accrue additional service credit or make contributions" in (c); and made stylistic changes.

The 2009 amendment, in (a), rewrote (a)(2), inserted (a)(4) and (a)(5), and made minor stylistic changes in (a)(1) and (a)(3).

The 2011 amendment by No. 45, in (a)(2)(A), substituted "July 1, 2011" for "July 2, 2009" and "six (6) calendar months" for "one hundred eighty (180) days"; substituted "one (1) calendar month" for "thirty (30) days" in (a)(2)(B); and substituted "six (6) calendar months" for "one hundred eighty (180) days" in (a)(4)(A).

The 2011 amendment by No. 565, substituted "and remain terminated during the member's applicable termination separation period to become and remain" for "to be" in (a)(1); in the introductory language of (a)(2)(A), substituted "July 1, 2011" for "July 2, 2009" and substituted "six (6) calendar months" for "one hundred eighty (180) days"; substituted "one (1) calendar month" for "thirty (30) days" in the introductory language of (a)(2)(B); subdivided part of former (a)(3) as (a)(3)(B); added (a)(3)(A); in (a)(3), inserted "both" and "and the termination separation period requirement"; rewrote

(a)(3)(B); deleted (a)(4)(A) and redesignated (a)(4)(B) as (a)(4); in (a)(4), inserted "interest, and distributions" and substituted "directly or indirectly by using" for "indirectly under"; rewrote (a)(5); added (a)(6); and added (d).

The 2011 amendment by No. 974 substituted "member" for "person" in (b)(2); in (b)(3), inserted "credit" and substituted "one-fourth (¼) of a fiscal year under § 24-7-601" for "thirty (30) days"; in (b)(4)(A)(i), inserted "Before July 1, 2011" at the beginning, and substituted "by paying" for "upon paying" and "employee and employer contributions" for "member contributions"; inserted (b)(4)(A)(ii); in (b)(4)(B), substituted "fiscal year" for "fiscal school year" twice and substituted "the minimum days of service rendered is sufficient for one (1) year of service credit under § 24-7-601" for "at least one hundred twenty (120) days of service were rendered."

24-7-504. [Repealed.]

Publisher's Notes. This section, concerning authority, was repealed by Acts

2005, No. 146, § 3. The section was derived from Acts 1999, No. 865, § 4.

SUBCHAPTER 6 — ARKANSAS TEACHER RETIREMENT SYSTEM — CREDITED SERVICE

SECTION.

24-7-601. Credited service generally.

24-7-602. Military service credit.

24-7-603. Out-of-state service.

24-7-604. Overseas service.

24-7-606. Service for leave of absence to obtain advanced degree.

SECTION.

24-7-607. Private school service.

24-7-610. Credit for service in National Guard and armed forces reserve.

24-7-611. Domestic federal service.

24-7-612. Service credit purchase.

Effective Dates. Acts 2001, No. 1296, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that that members of the Teacher Retirement System sometimes serve in the Arkansas National Guard, that current retirement laws do not permit those members to purchase that service, but active duty military service can be purchased; that Arkansas National Guard service by teachers is vital to and more directly benefits the citizens of Arkansas than does active duty military service; that it is inequitable to not pro-

vide for the purchase of National Guard service under the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act

includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2005, No. 385, § 10: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system; that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort; that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 97, § 19: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System require technical revisions; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 468, § 28: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pen-

sion policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 45, § 22: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System assets and accounting are complex, and the system must be able to appropriately manage the system members accounts and benefits; that many of these technical corrections are currently the policy of the Board of Trustees of the Arkansas Teacher Retirement System and should be codified to reflect that policy; and that this act is immediately necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 66, § 2: Feb. 18, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and

to other citizens of the State of Arkansas; that members with service in the national guard from other states and the armed forces reserve are currently excluded from purchasing this important service; the ability to purchase this important service should be allowed immediately to give these members the ability to purchased this service without delay; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 69, § 22: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that a member’s purchase of service credit currently provides that a member pay the system yesterday’s dollars for the value of today’s benefits; that such a valuation is unfair to the members as a whole and inconsistent with the prudent management of the system’s funds and obligations; that the purchase of service credit in the system should be based upon actuarial equivalents; that the pur-

chase of service credit should be paid in a lump sum to the system; that current service purchase accounts remain unpaid and inactive for many years at a time and create an administrative burden and accounting difficulty on the system that can be remedied by the passage of this act; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 974, § 9: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are urgently in need of revision and updating to bring them into conformance with sound public pension policy; that revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the school year calendar has historically been expanding with the addition of teacher service requirements and other legislative initiatives while the number of days of service has remained unchanged since the 1970s; that this legislation is necessary to account for the changes in teacher service requirements and to make the retirement system more reflective of the actual number of days of service; and that this act is necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

24-7-601. Credited service generally.

(a) By rule, the Board of Trustees of the Arkansas Teacher Retirement System shall fix and determine the number of years, and fraction thereof, of service to be credited each member for his or her employment as an employee.

(b)(1) A member shall be employed by an employer covered by the Arkansas Teacher Retirement System for a minimum of one hundred sixty (160) days per fiscal year to earn one (1) year of credited service.

(2) Fractional years of service may be granted beginning July 1, 1971, as prescribed by the board.

(3) A member shall not receive more than one (1) year of service in any one (1) fiscal year.

(4)(A) Beginning July 1, 2011, a contributory member who accrues less than one-fourth ($\frac{1}{4}$) year of service credit in a fiscal year may accumulate and carry forward days of service until the first fiscal year in which the contributory member accrues the minimum days of service required to credit one-fourth ($\frac{1}{4}$) year of service credit.

(B) Upon the contributing member's accruing of a minimum of one-fourth ($\frac{1}{4}$) year of service credit, the:

(i) Service credit shall be applied to the latest fiscal year; and

(ii) Carry-forward days shall be reset to zero (0).

(c)(1) Days of absence from service because of sickness shall be considered as service if the days are paid sick leave.

(2) Days of paid sick leave shall not be considered service if the payment is for unused sick leave.

(d) No credited service may be granted by the board for service rendered before July 1, 1937.

(e)(1) The system is a reciprocal system under the provisions of §§ 24-2-401 — 24-2-405.

(2) In establishing eligibility for a benefit from the Arkansas Teacher Retirement System, the credited service under all reciprocal systems shall be totaled and the total credited service shall be used in determining eligibility for a system benefit.

(3) In determining the amount of a benefit from this system, there shall be used only the actual service under this system and the benefit formula of this system.

(4) The final average compensation used shall be that of the reciprocal system that furnishes the highest final salary at the time of retirement.

(5) Wherever this system provides a benefit amount that is not dependent on length of credited service, the benefit amount shall be reduced to the proportion that actual system service bears to total reciprocal system-credited service.

(f) In any case of question as to the service credit of any person, the board shall have the final power to decide the question.

History. Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1981, No. 365, §§ 1, 2; 1983, No. 619, §§ 4, 5; 1983, No. 665, §§ 4, 5; 1985, No. 805, § 2; A.S.A. 1947, § 80-1440; Acts 1989, No. 10, § 2; 1989, No. 653, § 3; 1991, No. 43, § 4; 2007, No. 97, § 8; 2011, No. 974, § 3.

Amendments. The 2007 amendment

substituted "rule" for "rules and regulations" in (a); substituted "actual" for "credited" in (e)(3); and substituted "actual system service" for the first occurrence of "system-credited service" in (e)(5).

The 2011 amendment rewrote (b) and inserted (b)(1) through (4).

24-7-602. Military service credit.

(a)(1) If an active member of the Arkansas Teacher Retirement System enters the armed forces of the United States during any period of compulsory military service, after receiving a refund of member contributions from the system, the compulsory military service required of the member may be established as credited service under this subchapter if after discharge from the armed forces and before retirement the member repays to the system the actuarial equivalent of the member's benefits.

(2) In addition, an active member who entered the armed forces of the United States during any period of compulsory military service and who becomes an active member within one (1) year of his or her discharge from the armed forces is eligible to receive military service credit under this section, whether or not the member has five (5) or more years of credited service at the time of the reemployment.

(b) An inactive member who entered the armed forces shall have the period of armed forces service credited as service in the system without cost to the member if the member satisfies the following conditions:

(1) He or she completes five (5) or more years of actual service in the system; and

(2)(A) The armed forces service is not credited as service under any other retirement plan except social security.

(B) Receipt of a pension from the federal military retirement system paid solely for disability shall not be considered as having service credit with another retirement plan.

(c) If mandated by federal law before December 12, 1994, armed service not otherwise creditable under this section shall be creditable, provided the member pays to the system the actuarial equivalent of the member's benefits.

(d)(1) Effective December 12, 1994, a member who leaves employment with a school to serve, on a voluntary or involuntary basis, in the uniformed services of the United States and returns to employment with a school shall be treated as not having incurred a break in service with the employer. The employer shall certify to the system that reemployment was in accordance with the requirements set forth in Section 4312 of Pub. L. No. 103-353, the Uniformed Services Employment and Reemployment Act of 1994.

(2) Under this subsection, uniformed services of the United States is limited to the armed forces, the Army and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President of the United States in time of war or emergency.

(3) The cumulative length of the absence from a position of employment with the employer by reason of service in the uniformed services shall not exceed five (5) years.

(4) A member reemployed under this subsection shall be entitled to accrue benefits for the time he or she served in the uniformed services by paying the employee contributions set forth in § 24-7-406.

(5) An employer reemploying a member under this subsection shall pay to the system the employer contributions due for the time the member served in the uniformed services and shall be those required by § 24-3-103 [repealed]. However, should a member not pay the employee contributions due, then no employer contributions shall be due.

(6) For the purposes of determining the employee and employer contributions due, the member's compensation during the period of service in the uniformed services shall be computed at:

(A) The rate the member would have received had he or she not served in the uniformed services; or

(B) The member's average compensation level during the twelve-month period, or shorter, if applicable, immediately preceding the service.

(7) If both employee and employer contributions are not paid, the member shall not be entitled to any accrued benefits for the time served in the uniformed services.

(e) In no event shall a person be credited with a total of more than five (5) years of armed service, except that service credited under subsection (e) of this section shall be in addition to that amount.

(f) In any case of doubt as to the period of the armed service to be credited a member, the Board of Trustees of the Arkansas Teacher Retirement System shall have the power to determine the period.

(g)(1) In the case of a death occurring on or after January 1, 2007, if a member dies while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, as it existed on January 1, 2011, the survivors of the member are entitled to any additional benefits, including determining a member's vesting, provided under the Arkansas Teacher Retirement System as if the member had resumed and then terminated employment on account of death.

(2) Additional benefits under subdivision (g)(1) of this section do not include benefit accruals relating to the period of qualified military service.

History. Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1983, No. 619, § 5; 1983, No. 665, § 5; A.S.A. 1947, § 80-1440; Acts 1987, No. 518, § 1; 1989, No. 652, § 7; 1989, No. 653, § 4; 1991, No. 43, § 5; 1997, No. 142, § 2; 1997, No. 739, § 1; 1997, No. 1053, § 1; 1997, No. 1068, § 1; 2009, No. 468, § 10; 2011, No. 45, § 4; 2011, No. 69, §§ 14, 15.

Amendments. The 2009 amendment deleted former (b); redesignated former (c) as present (b) and redesignated the re-

maining subsections accordingly; and rewrote (a) and present (b).

The 2011 amendment by No. 45 added (g).

The 2011 amendment by No. 69 substituted "actuarial equivalent of the member's benefits" for "amount, if any, the member was refunded at the time of termination together with interest from the date of the refund to the date of repayment" in (a)(1); and substituted "to the system the actuarial equivalent of the

member's benefits" for "both the employee and employer contributions required by the system, plus interest from the date of discharge from active duty until paid in full" in (c).

24-7-603. Out-of-state service.

(a) As used in this section, "out-of-state service" means service rendered in any state except Arkansas in a position that would have been covered by the Arkansas Teacher Retirement System had the service been actual service covered by the system if rendered in the state.

(b) Out-of-state service purchased before July 1, 1987, shall be credited as service under this section in accordance with provisions in force before July 1, 1987.

(c) From and after July 1, 1987, an active member shall be eligible to establish out-of-state service to be credited as service under this subchapter under the following conditions:

(1)(A) The out-of-state service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to this system, except social security, if the member had left on deposit his or her contributions to the other system.

(B) The credit under subdivision (c)(1)(A) of this section is limited to fifteen (15) years;

(2)(A) The member shall pay to the system for each year of service credit granted the actuarial equivalent of the member's benefits.

(B) The payment shall be credited to the member's account in the members' deposit account and shall be in addition to regular member contributions thereto;

(3)(A) The out-of-state service shall not become credited service under this system until the member has established five (5) or more years of actual service.

(B) If a member ceases to be an active member before the out-of-state service has been established as system-credited service, the member payments made under this section shall be refundable;

(4) The benefit program to be applied to each year of service credit being granted shall be the benefit program in effect at the time of retirement; and

(5) Such other rules and regulations consistent with this subchapter as the Board of Trustees of the Arkansas Teacher Retirement System may from time to time adopt.

(d) An active member may purchase a fraction of a year of out-of-state service to be credited as service under this subchapter in the same manner as provided for out-of-state service under subsection (c) of this section if the service meets the following requirements:

(1) The member has not less than one-fourth ($\frac{1}{4}$) year of out-of-state credited service in the fiscal year; and

(2) The fraction of a year of out-of-state service may be credited in keeping with policies of the board under § 24-7-601.

(e) An active member shall be eligible, upon application, to purchase service rendered outside the state during a period of employment with

an education coordinating council to be credited as out-of-state service under the provisions of this section, provided that the conditions of subsection (c) of this section are met.

History. Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1981, No. 365, §§ 1, 2; 1983, No. 619, §§ 4, 5; 1983, No. 665, §§ 4, 5; 1985, No. 805, § 3; A.S.A. 1947, § 80-1440; Acts 1987, No. 118, § 1; 1989, No. 10, § 1; 1991, No. 501, § 1; 1995, No. 524, § 1; 1997, No. 142, §§ 3, 4; 1997, No. 1053, § 2; 1999, No. 110, § 1; 1999, No. 866, §§ 2, 3; 2003, No. 1473, § 57; 2005, No. 385, § 3; 2009, No. 468, § 11; 2011, No. 69, § 16; 2011, No. 974, § 4.

Amendments. The 2009 amendment substituted “actual service covered by the system if rendered in the state” for “rendered in the State of Arkansas” in (a); in (c), deleted “upon application” following

“shall be eligible” in the introductory language, subdivided (c)(1), and inserted “under subdivision (c)(1)(A) of this section” in (c)(1)(B); deleted “together with regular interest thereon” following “refundable” in (c)(3)(B)(ii); and made related and minor stylistic changes.

The 2011 amendment by No. 69, in the introductory language of (c), substituted “establish” for “purchase” and “under” for “in accordance with”; and rewrote (c)(2) and (c)(3).

The 2011 amendment by No. 974 substituted “one-fourth ($\frac{1}{4}$) year” for “thirty (30) days” in (d)(1); and substituted “under” for “as provided by” in (d)(2).

24-7-604. Overseas service.

(a) As used in this section, “overseas service” means service in an American-type overseas school sponsored and approved by either the United States Department of State or the Department of Defense, or service rendered in the Peace Corps or Volunteers In Service To America (VISTA).

(b) A member of the Arkansas Teacher Retirement System may receive membership service credit for service in an overseas school subject to the following conditions:

(1) To be eligible for overseas service credit, a member must have a minimum of five (5) years of membership service in a position covered by the system;

(2)(A) The overseas service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to this system, except social security.

(B) The maximum overseas service credited to any member shall be ten (10) years;

(3)(A) To be eligible for a year of overseas service credit, a member must have rendered the minimum days of service required for a fiscal year of service credit under § 24-7-601.

(B) Fractions of years of service may be credited in keeping with policies of the Board of Trustees of the Arkansas Teacher Retirement System as provided by § 24-7-601;

(4)(A) Overseas service credit may be established by paying to the system the actuarial equivalent of the member’s benefits.

(B) The employer’s cost-of-service credit may be paid either by the employer or by the member.

History. Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1981, No. 365, §§ 1, 2; 1983, No. 619, §§ 4, 5; 1983, No. 665, §§ 4, 5; 1985, No. 805, § 4; A.S.A. 1947, § 80-

1440; Acts 1987, No. 4, § 2; 1989, No. 670, § 1; 1991, No. 43, § 6; 1997, No. 142, § 5; 1997, No. 1053, § 3; 1999, No. 866, § 4; 2011, No. 69, § 17; 2011, No. 974, § 5.

Publisher's Notes. Pursuant to § 1-2-207, subdivision (b)(3) is set out above as amended by Acts 2011, No. 974. As amended by Acts 2011, No. 69, subdivision (b)(3) read as follows:

"(3) To be eligible for a year of overseas service credit, a member must have rendered at least one hundred sixty (160)

days of service. Fractions of years of service may be credited in keeping with policies of the Board of Trustees of the Arkansas Teacher Retirement System as provided by § 24-7-601;"

Amendments. The 2011 amendment by No. 974 subdivided (3); and substituted "the minimum days of service required for a fiscal year of service credit under § 24-7-601" for "at least one hundred twenty (120) days" in (b)(3)(A).

24-7-606. Service for leave of absence to obtain advanced degree.

(a)(1) From and after June 28, 1985, any public school teacher or administrator who is a member of the Arkansas Teacher Retirement System and takes a leave of absence from a school in order to obtain an advanced degree at an institution of higher learning or to fulfill the requirements of a scholarship or grant shall be eligible, upon application, to receive credited service in the system for the time of actual enrollment in the institution.

(2) Evidence of the minimum days of enrollment at an institution of higher education in a fiscal year equivalent to the minimum days of service required for a fiscal year of service credit under § 24-7-601 shall be presented with the application.

(b) The service shall be credited in accordance with § 24-7-601.

(c) The member shall pay the actuarial equivalent of the member's benefits to the system for each year of service credit being granted.

History. Acts 1985, No. 897, § 1; A.S.A. 1947, § 80-1440.4; Acts 1989, No. 652, § 8; 1991, No. 184, § 1; 1995, No. 542, § 5; 1997, No. 142, § 6; 1999, No. 866, § 5; 2003, No. 1473, § 58; 2011, No. 69, § 18; 2011, No. 974, § 6.

Amendments. The 2011 amendment by No. 69 inserted "the actuarial equivalent of the member's benefits" in present (c), and deleted (c)(1) and (c)(2).

The 2011 amendment by No. 974 rewrote (a)(2).

24-7-607. Private school service.

(a) As used in this section, "private school service" means service rendered in any private school or agency that is recognized by the Department of Education for the issuance of teaching licenses.

(b) From and after January 1, 1990, an active member shall be eligible, upon application, to purchase private school service for a period not to exceed fifteen (15) years, to be credited as service under this subchapter under the following conditions:

(1) The private school service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to the Arkansas Teacher Retirement System, except social security, if the member left on deposit his or her contributions to the other system;

(2)(A) The member shall pay the actuarial equivalent of benefits as set forth under § 24-7-202 to the system for each year of service credit being granted.

(B) The payment shall be credited to the member's account in the members' deposit account and shall be in addition to regular member contributions thereto;

(3) The private school service shall not become credited service under this system until:

(A) The member payment under this section has been paid in full; and

(B)(i) The member has established five (5) or more years of actual service exclusive of private school service.

(ii) If a member ceases to be an active member before the private school service has been established as system-credited service, the member payments contributed under this section shall be refunded to the member;

(4) The benefit program to be applied to each year of service credit being granted shall be the benefit program in effect at the time of retirement; and

(5) Such other rules and regulations consistent with this subchapter as the Board of Trustees of the Arkansas Teacher Retirement System may from time to time adopt.

(c) An active member may purchase a fraction of a year of private school service to be credited as service under this subchapter in the same manner as provided for private school service under subsection (b) of this section if the service meets the following requirements:

(1) The member has not less than one-fourth ($\frac{1}{4}$) year of private school service in a fiscal year under § 24-7-601; and

(2) The fraction of a year of private school service may be credited in keeping with policies as provided by § 24-7-601.

History. Acts 1991, No. 388, § 1; 1995, No. 513, § 1; 1995, No. 524, § 2; 1997, No. 142, § 7; 1997, No. 1053, § 4; 1999, No. 110, § 2; 1999, No. 866, § 6; 2001, No. 1534, § 1; 2003, No. 1473, § 59; 2005, No. 385, § 4; 2007, No. 97, § 9; 2009, No. 468, § 12; 2011, No. 69, § 19; 2011, No. 974, § 7.

Amendments. The 2007 amendment substituted "licenses" for "certificates" in (a).

The 2009 amendment deleted "together with regular interest thereon" following "refundable" in (b)(3)(B)(ii).

The 2011 amendment by No. 69 inserted "for a period not to exceed fifteen (15) years" in the introductory language of

(b); deleted "and it shall be limited to fifteen (15) years" at the end of (b)(1); inserted "the actuarial equivalent of benefits as set forth under § 24-7-202" in (b)(2)(A); deleted (b)(2)(A)(i) and (ii); deleted former (b)(2)(B) and redesignated former (b)(2)(C) as present (b)(2)(B); substituted "under this section" for "specified in subdivision (b)(2) of this section" in (b)(3)(A) and (B)(ii); and substituted "refunded to the member" for "refundable" in (b)(3)(B)(ii).

The 2011 amendment by No. 974, in (c)(1), substituted "one-fourth ($\frac{1}{4}$) year" for "thirty (30) days" and inserted "under § 24-7-601."

24-7-610. Credit for service in National Guard and armed forces reserve.

(a) As used in this section, “armed forces reserve” means one (1) of the reserve components of the armed forces of the United States.

(b)(1) A member of the Arkansas Teacher Retirement System shall be entitled to purchase credited service in the system for a period not to exceed five (5) years for service rendered by the member in the National Guard or the armed forces reserve if the member:

(A) Makes an application to the Board of Trustees of the Arkansas Teacher Retirement System;

(B) Provides proof satisfactory to the board of that person’s service in the National Guard or the armed forces reserve; and

(C) Pays to the system for each year of service credit being granted the actuarial equivalent of the member’s benefits.

(2) The payment shall be credited to the member’s account in the members’ deposit account and shall be in addition to regular member contributions.

(c) Members shall receive one (1) year of purchased service credit for each one (1) year of service in the National Guard or the armed forces reserve.

(d) The National Guard or armed forces reserve service shall not become credited service under this system until:

(1) The member payments specified in subdivision (b)(1)(C) of this section have been paid in full; and

(2) The member has established five (5) or more years of actual service in the system.

(e) If a member ceases to be an active member before the service in the National Guard or the armed forces reserve has been established as system-credited service, the member payments contributed as specified in subdivision (b)(1)(C) of this section shall be refundable.

(f)(1) This section is supplemental to § 24-7-602, and this section does not diminish the right of any member of the system to obtain credited service in the system for active duty military service within the limits permitted by § 24-7-602.

(2) However, a member shall not be entitled to or receive in excess of five (5) years of credited service rendered by the member under this section.

History. Acts 2001, No. 1296, § 1; 2003, No. 1473, § 60; 2009, No. 468, § 13; 2011, No. 66, § 1; 2011, No. 69, § 20.

Amendments. The 2009 amendment deleted “together with regular interest thereon” following “refundable” in (d).

The 2011 amendment by Act No. 66 rewrote the section heading; added present (a) and redesignated the remaining subsections accordingly; substituted “National Guard or the armed forces re-

serve” for “Arkansas National Guard” throughout the section; rewrote present (c); substituted “(b)(1)(C)” for “(a)(1)(C)” in (d)(1) and (e); inserted “service in the” in (e); and deleted former (f).

The 2011 amendment by No. 69 added “the actuarial equivalent of the member’s benefits” to the end of (a)(1)(C); deleted (a)(1)(C)(i) and (ii); deleted former (a)(2); and redesignated former (a)(3) as present (a)(2).

24-7-611. Domestic federal service.

(a) As used in this section, "domestic federal service" means service rendered as a teacher or administrator in any school or similar institution located on a military base or installation that is administered by the Department of Defense.

(b) From and after January 1, 2003, an active member shall be eligible upon application to purchase domestic federal service to be credited as service under this section under the following conditions:

(1) The domestic federal service credit to be granted shall be limited to service for which no benefit could be paid by a retirement system similar in purpose to the Arkansas Teacher Retirement System except social security if the member left on deposit his or her contributions to the other system, and it shall be limited to ten (10) years;

(2)(A) For each year of domestic federal service credit granted, the member shall pay to the system the employee and employer contributions based on the actuarial equivalent of the member's benefits.

(B) The payment is credited to the member's account in the members' deposit account and is in addition to regular member contributions;

(3) The domestic federal service shall not become credited service under this system until:

(A) The member payment under this section has been paid in full; and

(B)(i) The member has established five (5) or more years of actual service exclusive of domestic federal service.

(ii) If a member ceases to be an active member before the domestic federal service has been established as system-credited service, the member payments contributed under this section shall be refunded to the member;

(4) The benefit program to be applied to each year of service credit being granted shall be the benefit program in effect at the time of retirement; and

(5) The other rules and regulations consistent with this section as the Board of Trustees of the Arkansas Teacher Retirement System may from time to time adopt.

(c) An active member may purchase a fraction of a year of domestic federal service to be credited as service under this subchapter in the manner as provided for domestic federal service under subsection (b) of this section if the service meets the following requirements:

(1) The member has not less than one-fourth ($\frac{1}{4}$) year of domestic federal service in a fiscal year under § 24-7-601; and

(2) The fraction of a year of domestic federal service may be credited in keeping with policies as provided by § 24-7-601.

(d) However, the board shall not implement this section until the system has reduced its unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years to a level less than the standards prescribed for those public retirement systems under §§ 24-1-104 and 24-1-105.

History. Acts 2003, No. 1479, § 1; 2009, No. 468, § 14; 2011, No. 69, § 21; 2011, No. 974, § 8.

Amendments. The 2009 amendment deleted “together with regular interest thereon” following “refundable” in (b)(3)(B)(ii).

The 2011 amendment by No. 69 added “the actuarial equivalent of the member’s benefits” at the end of (b)(2)(A); deleted (b)(2)(A)(i) and (ii); deleted former

(b)(2)(B) and (C) and redesignated former (b)(2)(D) as present (b)(2)(B); substituted “under this section” for “specified in subdivision (b)(2) of this section” in (b)(3)(A) and (b)(3)(B)(ii); and substituted “refunded to the member” for “refundable” in (b)(3)(B)(ii).

The 2011 amendment by No. 974 substituted “one-fourth (¼) year” for “thirty (30) days” and inserted “under § 24-7-601” in (c)(1).

24-7-612. Service credit purchase.

(a) A member who purchases service credit in the Arkansas Teacher Retirement System shall pay the actuarial equivalent of both the employee and employer contributions, as calculated by the system.

(b)(1) If a member has an existing service purchase account with the system before July 1, 2011, the member shall pay the balance of the account to the system according to the payment schedule agreed upon by the member and the system.

(2) The member shall agree to a reasonable payment schedule with the system on or before June 30, 2012, or the member payments, if any, shall be returned to the member by the system without interest on the member payments as allowed by law.

(3) The service purchase account shall be closed after the system has returned the member payments.

(c) Beginning July 1, 2011, service purchase accounts shall not be created for the purchase of service credit in the system.

(d) The Board of Trustees of the Arkansas Teacher Retirement System may promulgate rules regarding service purchase accounts consistent with this section.

History. Acts 2011, No. 69, § 13.

SUBCHAPTER 7 — ARKANSAS TEACHER RETIREMENT SYSTEM — BENEFITS

SECTION.

- 24-7-701. Voluntary retirement.
- 24-7-702. Early voluntary retirement.
- 24-7-704. Disability retirement.
- 24-7-705. Life annuity.
- 24-7-706. Annuity options.
- 24-7-707. Deferred retirement.
- 24-7-708. Employment of retired members by covered employers.
- 24-7-709. Disposition of member contributions — Residue.
- 24-7-710. Survivor annuity benefits.
- 24-7-711. Refund of member contributions upon termination.
- 24-7-713. Retirement annuity — Simple cost of living adjustment

SECTION.

- and monthly benefit stipend.
- 24-7-717. [Repealed.]
- 24-7-718. Minimum financial conditions for benefit increases.
- 24-7-719. Rollover of distributions.
- 24-7-720. Lump-sum benefit.
- 24-7-721 — 24-7-724. [Repealed.]
- 24-7-725. Limitation on benefit enhancement of Acts 1997, No. 1074.
- 24-7-727. Compounded cost of living adjustments.
- 24-7-730. Required distributions.
- 24-7-731. Forfeitures.

SECTION.

- 24-7-732. System termination or discontinuance — Vesting.
 24-7-733. Limitation on benefits.
 24-7-734. Lost payees.
 24-7-735. Contract buyout agreement — Calculation of benefits.

SECTION.

- 24-7-736. Calculation of final average salary.
 24-7-737. Salary contracts — Additional remuneration.

Effective Dates. Acts 2001, No. 155, § 5: Applies retroactively to January 1, 2001.

Acts 2001, No. 155, § 7: Feb. 8, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that provisions of the Arkansas Teacher Retirement System law need to be reconciled with federal tax laws; that these changes should take place retroactively to January 1, 2001; and that this act should have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 359, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that deceased members of the Teacher Retirement System leave families in need of financial support, that there is a necessity of financial stability for families during this time of crisis, that the death benefit provisions of the retirement system can most effectively be managed at the beginning of the state's fiscal year, and therefore this act should take effect with the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 360, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third Gen-

eral Assembly of the State of Arkansas that an additional monthly benefit amount for Teacher Retirement retirees will help offset the increasing cost of health insurance; and that the beginning of the state's fiscal year is the most administratively advantageous time to implement a benefit increase for the system. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 461, § 7: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is a necessity to set a normal retirement age for eligibility for retirement benefits in order to maintain the integrity of the Arkansas Teacher Retirement System; and that changes in legal provisions of the retirement system can most effectively be managed at the beginning of the state's fiscal year; and therefore this act should take effect with the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 481, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that retirants are sometimes needed by the Arkansas Department of Education and the public schools to fulfill vital positions within the educational system of Arkansas; that by allowing them to participate in the Teacher Deferred Retirement Option Plan, their motivation to return to active teaching service will be enhanced; that the law needs to provide a method by which the system can permit them to return and earn T-DROP benefits; and that the most effective time to make

these changes to the retirement system is at the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 742, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that nonteaching employees of Arkansas school districts have more in common with fellow educational employees than with public employees; that allowing the nonteaching employees to earn service credit in the Teacher Retirement System will promote more effective use of educational funds in Arkansas; and that in order to promote the proper operation of the school districts these laws need to be effective at the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective beginning July 1, 2001."

Acts 2001, No. 1146, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that retirants of the Teacher Retirement System are sometimes needed by the public schools of Arkansas to fill vital positions within the educational system of Arkansas; that the current retirement law limits the amount of salary which can be paid to a retiree and the law needs to provide that a teacher may return to active employment after retirement; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1300, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the length of time for earning an unreduced retirement benefit for the Teacher Retirement System was lowered to twenty-eight (28) years and the penalty percentage for early retirement was reduced significantly in 1997; that many members of the retirement system retired on early retirement annuities before that

time under a higher percentage penalty; that this difference creates an inequity between those retiring before and after 1997; and that it is necessary to correct this inequity which is best done at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 71, § 5: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the applicability of the Internal Revenue Code is unclear in current Arkansas Teacher Retirement Systems laws; that this act is necessary to clarify the issue and ensure consistent and correct application of Arkansas Teacher Retirement System provisions; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 385, § 10: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system; that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort; that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 494, § 5: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Teacher Retirement System is expending valuable time and resources in determining and locating the recipients of benefits upon a member's death in certain circum-

stances; that the effective operation and administration of the system in these instances would be advanced by paying the benefits to the member's estate; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 911, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the earnings limitation as currently provided to members of the Arkansas Teacher Retirement System threatens the financial stability of the system; that the current earnings limitation jeopardizes the system's ability to meet the current and long-term needs of its members; and that the most effective time to make changes to the system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 97, § 19: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System require technical revisions; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 296, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System regarding lump sum benefit payments require revision; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year.

Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 297, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System regarding monthly stipends require revision; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 487, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System regarding disability retirement require revision; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 425, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of

the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2009, No. 468, § 28: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pension policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2009, No. 743, § 8: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2009, No. 1202, § 2: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore,

an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2009, No. 1322, § 2: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the member of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2009, No. 1323, § 2: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2009, No. 1324, § 2: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of

benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 45, § 22: Feb. 16, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System assets and accounting are complex, and the system must be able to appropriately manage the system members accounts and benefits; that many of these technical corrections are currently the policy of the Board of Trustees of the Arkansas Teacher Retirement System and should be codified to reflect that policy; and that this act is immediately necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 136, § 2: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are urgently in need of revision and updating to bring them into conformance with sound public pension policy; that this revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System operates on a July 1 to June 30 fiscal year so most changes to the Arkansas Teacher Retirement System plan work best if the changes are made at the begin-

ning of a fiscal year; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective July 1, 2011.”

Acts 2011, No. 137, § 5: Feb. 24, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the policy of the system historically has been to calculate deposits and benefits for an additional fiscal year following the last fiscal year that the member renders actual service to a covered employer; that the system’s policy needs to be codified into Arkansas law; that the operational definition should be codified as soon as possible to prevent confusion; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 163, § 3: Mar. 4, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System are in urgent need of revision and updating to bring them into compliance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System should

not provide service credit for contract buy-outs when services are not provided on-site to the employer to prevent undue costs from being passed on to the system by contract buyout participants obtaining vesting and service credit rights that otherwise would not be earned or payable; and that this act is immediately necessary because allowing inactive contract buy-outs for service credit is poor public policy. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 224 § 2: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System operates on a July 1 to June 30 fiscal year, so most changes to the Arkansas Teacher Retirement System plan work best if the changes are made at the beginning of a fiscal year; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 557 § 2: Mar. 22, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement

System and to other citizens of the State of Arkansas; that the current listing of those eligible to be designated as a beneficiary under Option A and Option B is unclear and difficult to administer; and that this act is immediately necessary to maintain an orderly system of benefits for members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 973, § 2: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are badly in need of revision and updating to bring them into conformance with sound public pension policy; that this revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System operates on a July 1 to June 30 fiscal year so most changes to the Arkansas Teacher Retirement System plan work best if the changes are made at the beginning of a fiscal year; and that this act is necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 976, § 2: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision and updating to bring them into conformance with sound public pension policy; that this revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement

ment System operates on a July 1 to June 30 fiscal year, so most changes to the plan work best if the changes are made at the beginning of a fiscal year; and that this act is necessary to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 977, § 2: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that provisions of

the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

24-7-701. Voluntary retirement.

(a)(1)(A) Except as provided under subdivision (a)(2) of this section, an active member who either attains sixty (60) years of age and has five (5) or more years of actual and reciprocal service or who has twenty-eight (28) or more years of credited service regardless of age may voluntarily retire upon written application filed with the Arkansas Teacher Retirement System.

(B) If a member fails to submit a complete retirement application within six (6) calendar months after the effective date of benefits, including all additional documentation required by the system, the application shall be void unless an extension has been granted by the system.

(2)(A) A member shall meet the termination of covered employment requirements under § 24-7-502 to be eligible for retirement unless the member has attained normal retirement age.

(B) A member who fails to meet the termination of employment requirements of this subsection shall have his or her retirement benefits cancelled and forfeits any retirement benefits until the termination requirements are met.

(C)(i) A member who fails to meet the termination requirements of this section and has received retirement benefits from the system shall repay the benefits to the system before becoming eligible again for voluntary retirement.

(ii) The system may adjust and collect any benefits that have been overpaid to a member under § 24-7-205.

(D) A member who fails to meet the termination requirements of this section upon employment by a covered employer shall return to active member status under § 24-7-502.

(b) Upon a member's retirement, he or she shall receive a life annuity as provided for in § 24-7-705.

(c) The annuity shall begin the first day of the calendar month next following the latest of:

(1) One (1) month after the date the written application is filed with the board;

(2) The member's termination of active membership;

(3) The member's attainment of the minimum age; or

(4) The member's completion of the minimum years of credited service.

(d) If a member is retiring with an effective date other than July 1 or the first day of a calendar quarter within the fiscal year, the following limitations shall apply:

(1) No salary for service within the fiscal year shall be considered in determining final average salary;

(2) Credited service for service within the fiscal year shall not exceed one-quarter ($\frac{1}{4}$) year for each full calendar quarter elapsed since the beginning of the fiscal year; and

(3) Service credit to be used in the computation of benefits shall be computed only on the full calendar quarter completed and shall not include service credit for a partial calendar quarter worked.

(e)(1) If a member has signed an employment contract for a fiscal school year and been paid in full for that fiscal school year, in no event shall the annuity begin earlier than the July 1 next following that fiscal school year.

(2) If a member has signed an employment contract for a fiscal school year and if that contract is not completed, the member shall receive credit for service within the current fiscal year as provided in this section.

(f)(1) A member may cancel an application for voluntary retirement benefits up to two (2) calendar months after the effective date of benefits.

(2) The member shall notify the system of cancellation in writing. Upon cancellation, the member shall be eligible for active membership in the system.

History. Acts 1973, No. 427, § 9; 1979, No. 681, § 5; 1983, No. 17, § 1; A.S.A. 1947, § 80-1443; Acts 1993, No. 1091, § 2; 1995, No. 282, § 1; 1997, No. 992, § 1; 1997, No. 1053, § 5; 2001, No. 461, § 2; 2007, No. 97, § 10; 2009, No. 468, § 15; 2009, No. 743, § 2; 2011, No. 45, §§ 5, 6.

Amendments. The 2007 amendment inserted "and reciprocal" in (a)(1); deleted former (d) and (g) and redesignated the remaining subsections accordingly.

The 2009 amendment by No. 468, in (a), deleted "Board of Trustees of the" preceding "Arkansas Teacher Retirement Sys-

tem" in (a)(1), and inserted (a)(2)(D) and (a)(2)(E); substituted "a life annuity" for "an annuity" in (b); and made minor stylistic changes.

The 2009 amendment by No. 743 substituted "sixty (60) years of age" for "age sixty (60)" in (a)(1); substituted "meet the termination of covered employment requirements under § 24-7-502" for "terminate covered employment" in (a)(2)(A); deleted former (a)(2)(B) and redesignated the remaining subdivision accordingly.

The 2011 amendment added (a)(1)(B) and (f).

24-7-702. Early voluntary retirement.

(a)(1)(A) Except as provided under subdivision (a)(2) of this section, an active or inactive member who has twenty-five (25) or more years of credited service but has not attained sixty (60) years of age and is not eligible for retirement under § 24-7-701 may voluntarily retire early upon written application filed with the Board of Trustees of the Arkansas Teacher Retirement System.

(B) If a member fails to submit a complete retirement application within six (6) calendar months of the effective date of benefits, including all additional documentation required by the system, the application shall be void unless an extension is granted by the system.

(2)(A) A member shall meet the termination of covered employment requirements under § 24-7-502 to be eligible for retirement except if the member has attained normal retirement age.

(B) A member who fails to meet the termination of covered employment requirements under this subsection shall have his or her retirement benefits cancelled and forfeits any retirement benefits until the termination requirements are met.

(C)(i) A member who fails to meet the termination requirements of this section and has received retirement benefits from the system shall repay the benefits to the system before becoming eligible again for voluntary retirement.

(ii) The system may adjust and collect any benefits that have been overpaid to a member under § 24-7-205.

(D) A member who fails to meet the termination requirements of this section upon employment by a covered employer shall return to active member status under § 24-7-502.

(b)(1) Upon an active or inactive member's retirement as provided in this section, the member shall receive, in lieu of any other system benefit, an early annuity that shall be a certain percent of an annuity provided for in § 24-7-705.

(2) The percent shall be one hundred percent (100%) reduced by five-twelfths percent (5/12%) multiplied by the number of months by which the time of early retirement precedes the earlier of either completion of twenty-eight (28) years of credited service or attainment of sixty (60) years of age.

(3)(A) Effective July 1, 1997, the annuities of those members who chose early retirement when the years of service required for an unreduced annuity was thirty-five (35) or more years shall be adjusted to reflect the amount for which they would have been entitled had the number of years to retire with an unreduced annuity been thirty (30) years on the effective date of their retirement.

(B) The annuities of those members who chose early retirement from July 1, 1995, through June 30, 1999, who received an early annuity as provided in § 24-7-702 that was in effect at the time of their retirement, shall be adjusted effective July 1, 1999, to reflect a percent of the annuity as provided in subdivision (b)(2) of this section.

(C) Effective July 1, 2001, the annuities of those members who chose early retirement when the years of service required for an unreduced annuity was thirty (30) or more years shall be adjusted to reflect the amount for which they would have been entitled had the number of years to retire with an unreduced annuity been twenty-eight (28) years on the effective date of their retirement, and the annuities of those members shall be adjusted effective July 1, 2001, to reflect a percent of the annuity as provided in subdivision (b)(2) of this section, which was in effect July 1, 1999.

(4) The adjustments described in subdivision (b)(3) of this section shall not be retroactive to the effective date of the member's retirement.

(c) For an active member, the annuity shall begin the first day of the calendar month next following the latest of:

(1) One (1) month after the date the written application is filed with the board;

(2) The member's termination of active membership; or

(3) The member's completion of the required credited service.

(d) For an inactive member, the annuity shall begin the first day of the calendar month after the date his or her written application is received by the board.

(e) If a member is retiring with an effective date other than July 1 or the first day of a calendar quarter within the fiscal year, the following limitations shall apply:

(1) No salary for service within the fiscal year shall be considered in determining final average salary;

(2) Credited service for service within the fiscal year shall not exceed one-quarter ($\frac{1}{4}$) year for each full calendar quarter elapsed since the beginning of the fiscal year; and

(3) Service credit to be used in the computation of benefits shall be computed only on the full calendar quarter completed and shall not include service credit for a partial calendar quarter worked.

(f)(1) If a member has signed an employment contract for a fiscal school year and been paid in full for that fiscal year, in no event shall the annuity begin earlier than the July 1 next following that fiscal school year.

(2) If a member has signed an employment contract for a fiscal school year and that contract is not completed, the member shall receive credit for service within the current fiscal year as provided in subsection (e) of this section.

(g)(1) A member may cancel an application for early voluntary retirement benefits up to two (2) calendar months after the effective date of benefits.

(2) The member shall notify the system of cancellation in writing. Upon cancellation, the member shall be eligible for active membership in the system.

History. Acts 1973, No. 427, § 9; 1975, 17, § 2; A.S.A. 1947, § 80-1443; Acts No. 549, § 9; 1981, No. 365, § 6; 1983, No. 1993, No. 1091, § 3; 1995, No. 282, § 2;

1997, No. 992, § 2; 1997, No. 1074, § 1; 1999, No. 1521, § 1; 2001, No. 461, § 3; 2001, No. 1300, § 1; 2005, No. 385, § 5; 2007, No. 97, § 11; 2009, No. 468, § 16; 2009, No. 743, § 3; 2011, No. 45, §§ 7, 8.

Amendments. The 2007 amendment substituted “For an active member” for “Except for an inactive member” in the introductory language of (c); deleted (e) and (h) and redesignated the remaining subsections accordingly.

The 2009 amendment by No. 468, in (a), substituted “meet the termination of covered employment requirements under § 24-7-502” for “terminate covered employment” in (a)(2)(A), deleted (a)(2)(B)

and redesignated the subsequent subdivision accordingly, substituted “under subsection (a) of this section” for “of this subsection” in (a)(2)(B), and made minor stylistic changes.

The 2009 amendment by No. 743, in (a), made a stylistic change in (a)(1), substituted “meet the termination of covered employment requirements under § 24-7-502” for “terminate covered employment” in (a)(2)(A), deleted (a)(2)(B), and redesignated the subsequent subdivision accordingly.

The 2011 amendment added (a)(1)(B) and (g).

24-7-704. Disability retirement.

(a)(1)(A) Except as provided under subdivision (a)(1)(B) of this section, an active member in employer service with five (5) or more years of actual and reciprocal service who becomes totally and permanently physically or mentally incapacitated for his or her job duties as the result of a personal injury or disease may be retired by the Board of Trustees of the Arkansas Teacher Retirement System upon approval of a written application filed with the Arkansas Teacher Retirement System.

(B)(i) An active member who has met the eligibility requirement of subdivision (a)(1)(A) of this section shall meet the termination of covered employment requirements under § 24-7-502 to be eligible for disability retirement benefits.

(ii) For eligibility under this section, a member is considered active for an additional fiscal year following the last fiscal year that the member renders actual service to a covered employer and obtains at least one-fourth ($\frac{1}{4}$) year of service credit.

(iii) Service credit used in calculating any benefits paid under this section means days of service, including paid sick leave covered by the employer.

(C) The member is qualified to receive disability retirement benefits if by majority opinion the medical committee reports to the board in writing that its review of the member’s application and accompanying documentation finds:

(i) The member is physically or mentally incapacitated;

(ii) The member exhibits symptoms of physical or mental incapacitation while the member is employed by a system employer as an active member;

(iii) The member is unable to perform his or her current work duties;

(iv) The incapacity will most likely be permanent; and

(v) The member should be retired.

(2) The disability retirement shall be effective the calendar month following the member’s termination of active membership.

(b) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-7-705 and shall have the right to elect an option provided for in § 24-7-706. His or her disability retirement shall be subject to the provisions of subsections (c) and (d) of this section and to the provisions of § 24-7-708.

(c)(1) At least one (1) time each year during the first five (5) years following a member's retirement on account of disability, and at least one (1) time in each three-year period thereafter, the board may require any disability retiree who has not attained sixty (60) years of age to undergo a medical examination to be made by or under the direction of the medical committee.

(2) If the retiree refuses to submit to the medical examination in any period, his or her disability annuity may be suspended by the board until his or her withdrawal of his or her refusal.

(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability annuity may be revoked by the board.

(4) If upon the medical examination of the retiree the medical committee reports to the board that the retiree is physically and mentally able and capable of resuming his or her duty in the position held by him or her at the time of disability retirement, then his or her disability retirement shall terminate.

(5)(A) If a disability retiree returns to covered employment before attaining sixty (60) years of age, his or her disability retirement shall terminate.

(B) If a disability retiree returns to covered employment after attaining sixty (60) years of age and is otherwise eligible for retirement under § 24-7-707, the retiree shall be treated as if he or she retired under § 24-7-701.

(6)(A) If a disability retiree under sixty (60) years of age returns to covered employment, he or she shall immediately again become an active member of the system, and his or her credited service at the time of his or her disability retirement shall be restored to his or her credit in the members' deposit account.

(B) The retiree's disability retirement and his or her accumulated contributions shall be treated as if he or she had returned to service on the date of the full-time employment.

(7) A disability retiree shall not be given service credit for the period he or she was receiving a disability retirement annuity.

(d)(1) A member has six (6) calendar months from the date of application for disability retirement to submit a completed application and accompanying documentation.

(2) If a member does not provide all the accompanying documentation requested by the system within the six (6) calendar months, the system will submit the application to the medical committee for review as complete or withdraw the application at the request of the member unless an extension is granted by the system.

History. Acts 1973, No. 427, § 9; 1977, No. 541, § 7; 1979, No. 681, § 8; A.S.A. 1947, § 80-1443; Acts 1997, No. 1053, § 6; 2001, No. 461, § 4; 2005, No. 385, § 6; 2007, No. 487, § 1; 2009, No. 468, § 17; 2009 No. 743, §§ 4, 5; 2011, No. 45, § 9; 2011, No. 137, § 1; 2011, No. 973, § 1.

Amendments. The 2007 amendment, in (a)(1)(A), inserted “and reciprocal” and substituted “job duties” for “duty”; inserted “disability” in (a)(1)(B)(i) and twice in (a)(1)(B)(ii); substituted “eligibility” for “age and service” in (a)(1)(B)(i); rewrote (a)(1)(C); substituted “If a disability retiree returns to full-time service as defined by rules determined by the board prior to attaining sixty (60) years of age” for “Upon a disability retiree’s return to full-time service as defined by rules and regulations determined by the board” in (c)(5)(A) and added (B); substituted “If a disability retiree under sixty (60) years of age returns to full-time service, he or she shall immediately again become an active member” for “Upon a disability retiree’s return to service, he or she shall immediately again become a member” in (c)(6)(A) and added (B); substituted “a disability retiree be given credit for the period he or she was receiving a disability” for “he or she be given service credit for the period he or she was in receipt of the disability” in (c)(7); deleted former (d); and made related changes.

The 2009 amendment by No. 468, in (a)(1)(A), substituted “an active member”

for “any member,” inserted “approval of a,” and substituted “Arkansas Teacher Retirement System” for “board by or on behalf of the member,” substituted “a review of the member’s application and accompanying documentation is conducted by” for “after a medical examination of the member made by or under the direction of” in (a)(1)(C), and rewrote (a)(2); substituted “covered employment” for “full-time service as defined by rules promulgated by the board” in (c)(5)(A) and (c)(5)(B); inserted “and is otherwise eligible for retirement under § 24-7-707” in (c)(5)(B); substituted “covered employment” for “full-time service” in (c)(6)(A); and made related and minor stylistic changes.

The 2009 amendment by No. 743, in (a)(1)(B), deleted (a)(1)(B)(ii), redesignated the remaining subdivision accordingly, and substituted “meet the termination of covered employment requirements under § 24-7-502” for “terminate covered employment”; and deleted “and is subject to the limitations applicable to age and service retirees” at the end of (c)(5)(B).

The 2011 amendment by No. 45 added (d).

The 2011 amendment by No. 137 added (a)(1)(B)(ii) and (iii).

The 2011 amendment by No. 973 rewrote the introductory paragraph of (a)(1)(C); and inserted (a)(1)(C)(ii) and redesignated the remaining subdivisions accordingly.

24-7-705. Life annuity.

(a)(1)(A) After July 1, 1999, upon a member’s retirement, he or she shall receive a straight life annuity equal to his or her number of years of credited service for which member contributions were made as provided in § 24-7-406 multiplied by not less than two and sixty-five thousandths percent (2.065%) nor more than two and fifteen-hundredths percent (2.15%) of his or her final average salary, or a straight life annuity equal to his or her number of years of credited service rendered after June 30, 1986, for which no member contributions were made as provided in § 24-7-406 multiplied by not less than one and three hundred five thousandths percent (1.305%) nor more than one and thirty-nine hundredths percent (1.39%) of his or her final average salary, or a combination of both.

(B) The percentages in subdivision (a)(1)(A) of this section shall be determined in accordance with rules and regulations of the Board of Trustees of the Arkansas Teacher Retirement System as is actuarially appropriate for the system.

(C) Prior to increasing a benefit as provided in this section, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Committee on Public Retirement and Social Security Programs.

(2)(A) For a member contributing on only the first seven thousand eight hundred dollars (\$7,800) of each annual salary after June 30, 1969, each annual salary used in computing his or her final average salary shall be limited to a maximum of seven thousand eight hundred dollars (\$7,800).

(B) The limit shall apply to his or her total credited service.

(3) For a member retiring with benefits to be computed on both contributory and noncontributory service under subsection (a) of this section and free military service first credited after July 1, 1986, under § 24-7-602, the amount of military service to be used in the computation of benefits under subsection (a) of this section shall be prorated on the ratio of membership service under each plan to his or her total membership service, notwithstanding the fact that some of the military service shall be credited as noncontributory service before July 1, 1986.

(4) All purchased military service, all out-of-state service credited under § 24-7-603, and all overseas service credited under § 24-7-604 shall be counted as contributory service, and benefits based on this service shall be computed using the contributory percent of final average salary set forth in this subsection.

(b)(1) The minimum straight life annuity for a member retiring after June 30, 1965, but before July 1, 1986, shall be one hundred fifty dollars (\$150) per month, plus the benefits applicable under § 24-7-713.

(2) For a member retiring July 1, 1986, or later, the minimum straight life annuity shall be:

(A)(i) One hundred dollars (\$100) per month if the member has no noncontributory credited service of the type specified in subdivision (a)(1) of this section, plus the benefits applicable under § 24-7-713.

(ii) Effective July 1, 1998, for members with ten (10) or more years of contributory credited service of the type specified in subdivision (a)(1) of this section, the amount shall be one hundred fifty dollars (\$150) per month, plus the benefits applicable under § 24-7-713;

(B)(i) Sixty-four dollars (\$64.00) per month if the member has only credited service of the noncontributory type specified in subdivision (a)(1) of this section, plus the benefits applicable under § 24-7-713.

(ii) Effective July 1, 1998, for members with ten (10) or more years of noncontributory credited service of the type specified in subdivision (a)(1) of this section, the amount shall be ninety-four dollars (\$94.00) per month, plus the benefits applicable under § 24-7-713; or

(C)(i)(a) If the member has a mixture of credited service, the monthly amount shall be prorated between sixty-four dollars (\$64.00) and one hundred dollars (\$100) according to the relationship between his or her noncontributory credited service and his or her total credited service, plus the benefits applicable under § 24-7-713.

(b) Effective July 1, 1998, for members with ten (10) or more years of credited service, the amount shall be prorated between ninety-four

dollars (\$94.00) and one hundred fifty dollars (\$150) per month, according to the relationship between the member's noncontributory credited service and total credited service, plus the benefits applicable under § 24-7-713.

(ii) However, if the member has:

(a) At least five (5) years of contributory service, regardless of his or her number of years of noncontributory service, his or her monthly amount shall not be less than one hundred dollars (\$100), plus the benefits applicable under § 24-7-713; or

(b) At least ten (10) years of contributory service, regardless of his or her number of years of noncontributory service, his or her monthly amount shall not be less than one hundred fifty dollars (\$150), plus the benefits applicable under § 24-7-713.

(c) As of 1986, the member contributory benefit program and the member noncontributory benefit program were related by requiring the same employer contribution rate. It is intended that this relationship be preserved by future changes, if any, in benefit programs.

(d) Upon a member's retirement, as provided in this act, he or she shall have the right to elect an option provided for in § 24-7-706.

(e) A member retiring before July 1, 1987, shall receive an annuity in accordance with provisions of law in force before July 1, 1987.

History. Acts 1973, No. 427, § 9; 1975, §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 504, § 3; A.S.A. 1947, § 80-1443; Acts 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1987, No. 802, § 1; 1989, No. 652, § 9; 1979, No. 681, §§ 5-12; 1979, No. 776, 1991, No. 44, §§ 1, 2; 1993, No. 435, § 7; §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, 1995, No. 542, § 6; 1997, No. 992, § 3; §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, 1997, No. 1053, § 7; 1999, No. 221, § 1; § 2; 1983, No. 127, § 2; 1983, No. 619, 1999, No. 396, § 1; 2003, No. 853, § 1.

24-7-706. Annuity options.

(a)(1) Before the date the first payment of his or her annuity becomes due, but not thereafter, a member may elect to receive his or her annuity as a straight life annuity, or he or she may elect to receive the actuarial equivalent, at that time, of his or her straight life annuity in a reduced annuity payable throughout his or her life.

(2) The member may nominate a beneficiary, in accordance with one (1) of the following options:

(A) OPTION A — 100% SURVIVOR ANNUITY.

(i) Under Option A, upon the death of a retirant, his or her reduced annuity shall be continued throughout the life of and paid to such person as he or she shall have nominated by written designation executed and filed with the Board of Trustees of the Arkansas Teacher Retirement System before the date the first payment of his or her annuity becomes due.

(ii) The person designated as a beneficiary by the retirant shall be:

(a) The retirant's spouse for not less than one (1) year immediately preceding the first payment due date; or

(b) A dependent child of the retirant who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;

(B) OPTION B — 50% SURVIVOR ANNUITY.

(i) Under Option B, upon the death of a retirant, one-half (1/2) of his or her reduced annuity shall be continued throughout the life of and paid to such person as he or she has nominated by written designation executed and filed with the board before the date the first payment of his or her annuity becomes due.

(ii) The person designated as a beneficiary by the retirant shall be:

(a) The retirant's spouse for not less than one (1) year immediately preceding the first payment due date; or

(b) A dependent child of the retirant who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction; or

(C) OPTION C — ANNUITY FOR TEN (10) YEARS CERTAIN AND LIFE THEREAFTER.

(i) Under Option C, a retirant shall receive a reduced annuity payable throughout his or her life with the provision that if he or she dies before he or she has received one hundred twenty (120) monthly annuity payments, the payments shall be continued for the remainder of the period of one hundred twenty (120) months and paid to such persons in equal shares as the retirant has nominated by written designation executed and filed with the board.

(ii) If the designated beneficiaries predecease the retirant, the retirant may nominate successor beneficiaries or may elect to return to his or her single lifetime benefit equivalent by written designation executed and filed with the board to be effective the month following receipt of his or her election by the Arkansas Teacher Retirement System.

(iii) If no designated beneficiary survives the retirant, the annuity reserve for the remainder of the annuity payments shall be paid to the retirant's estate.

(iv) If the last designated beneficiary receiving annuity payments dies before all annuity payments are made, the annuity reserve for the remainder of the annuity payments shall be paid to the beneficiary's estate.

(v) Effective the month following completion of the one-hundred-twenty-month period, the retirant's annuity shall return to his or her single lifetime benefit equivalent.

(3) In addition to the persons eligible to be designated as a beneficiary under either Option A or Option B in subdivision (a)(2) of this section, the board may promulgate rules concerning the addition of classes of eligible persons to be designated as a beneficiary under this section and for the rights of option beneficiaries of deceased disability retirees under § 24-7-704.

(b)(1) At the written election of the retirant, the death of the beneficiary or divorce or other marriage dissolution after retirement

from a spouse designated as beneficiary shall cancel any optional plan elected at retirement and shall return the retirant to his or her single lifetime benefit equivalent, to be effective the month following receipt of his or her election by the system.

(2)(A) A retirant who is receiving a single lifetime benefit and who marries after retirement may elect to cancel his or her single lifetime benefit and may elect Option B — 50% Survivor Annuity providing continuing lifetime benefits to his or her spouse, but only if the election is on a form approved by the system and is received by the system within six (6) months after the date of marriage.

(B) The election shall be effective the first day of the month following its receipt.

(c) If a member fails to elect an option, his or her annuity shall be paid to him or her as a straight life annuity.

(d)(1) Notwithstanding anything contained in this section to the contrary, the residue beneficiary under § 24-7-709 may elect to cancel the form of annuity in effect and elect Option A — 100% Survivor Annuity upon the death of a retirant on or after July 1, 1989, if:

(A) The retirant died within one (1) year following the effective date of retirement;

(B) The retirant was receiving a straight life annuity; and

(C) The residue beneficiary otherwise qualifies for an Option A — 100% Survivor Annuity.

(2) The election to change may be made only one (1) time and shall be on a form approved by the system.

(3) The election form must be received by the system within one hundred twenty (120) days of the death of the retiree.

(e)(1) Notwithstanding anything in this section to the contrary, a retirant who retired on or after July 1, 1994, may elect to cancel his or her election made at retirement for receiving an annuity and elect another option, provided that he or she:

(A) Does so within one (1) year after July 1, 1995, or within one (1) year of retirement;

(B) Files with the system a new election form approved by the system; and

(C)(i) Repays to the system the difference between the amount of the annuity received when he or she retired and the new annuity due as a result of the election change, plus interest from July 1, 1994, or his or her retirement date, whichever is later, to the date of payment in full.

(ii) The difference shall be calculated retroactively to July 1, 1994, or his or her retirement date, whichever is later.

(2) The election to change shall be made only one (1) time.

(3) The election change shall be effective retroactively to the effective date of his or her annuity.

(f) The Board of Trustees of the Arkansas Teacher Retirement System shall:

(1) Promulgate rules as necessary to administer this section; and

(2) Institute fair procedures for members of the system, including without limitation:

- (A) Requirements for designating a beneficiary; and
- (B) Spousal election.

History. Acts 1973, No. 427, § 9; 1977, No. 541, § 5; 1979, No. 681, § 7; 1983, No. 619, § 10; 1983, No. 665, § 10; A.S.A. 1947, § 80-1443; Acts 1991, No. 51, § 1; 1995, No. 528, § 1; 1999, No. 395, §§ 1, 2; 1999, No. 866, § 7; 2005, No. 385, § 7; 2007, No. 97, § 12; 2011, No. 137, § 2; 2011, No. 557, § 1.

Amendments. The 2007 amendment substituted “adjudged” for “ruled,” substituted “by a” for “either by an Arkansas” in (a)(2)(A)(ii)(b) and (a)(2)(B)(ii)(b); deleted “or by the Board of Trustees of the Arkansas Teacher Retirement System” from the end of (a)(2)(A)(ii)(b); deleted “or by the board” from the end of (a)(2)(B)(ii)(b); substituted “within six (6) months after the date of marriage” for “not earlier than the date of the marriage and not later than six (6) months thereafter” in (b)(2)(A); substi-

tuted “the residue beneficiary under § 24-7-709” for “the beneficiary” in (d)(1); added (d)(1)(C); substituted “one hundred twenty (120) days of the death of the retiree” for “thirty (30) days after February 7, 1991, or within ninety (90) days of the death of the retiree, whichever is later” in (d)(3); and deleted “regular” preceding “interest” in (e)(1)(C)(i).

The 2011 amendment by No. 137 added (f).

The 2011 amendment by No. 557 deleted “duly” following “designation” throughout (a); substituted “Board of Trustees of the Arkansas Teacher Retirement System” for “board” in (a)(2)(A)(i); rewrote former (a)(2)(A)(ii) and (a)(2)(B)(ii); substituted “the retirant” for “him or her” in (a)(2)(C)(iii); and added (a)(3).

24-7-707. Deferred retirement.

(a)(1)(A) If an active member, becomes inactive before the member reaches sixty (60) years of age, upon completion of five (5) years of actual and reciprocal service, the member is entitled to a deferred annuity when the member becomes sixty (60) years of age as provided in this section.

(B) The member is eligible for deferred retirement if the member has not withdrawn his or her accumulated contributions from the members’ deposit account and is not employed in a position covered by another retirement plan that is supported wholly or in part by state contributions if the member’s being vested is based on the other system service.

(2) Upon approval by the Arkansas Teacher Retirement System, the deferred annuity shall commence as of the first day of the calendar month following the date the written application is received by the system.

(3) A member shall elect an option provided for in § 24-7-706 at the time of filing the written application.

(b) An inactive member’s deferred annuity shall be a life annuity as provided for in § 24-7-705.

(c) In the event the inactive member dies before qualifying for deferred retirement, no benefits whatsoever shall be paid except under the provisions of § 24-7-711.

(d) If a member fails to submit a complete deferred retirement application within six (6) calendar months of the effective date of

benefits, including all additional documentation required by the system, the application shall be void unless an extension is granted by the system.

(e)(1) A member may cancel an application for deferred retirement benefits any time before two (2) calendar months from the effective date of benefits.

(2) The member shall notify the system of cancellation in writing. Upon cancellation, the member shall be eligible for active membership in the system.

History. Acts 1973, No. 427, § 9; 1975, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1979, No. 681, §§ 5-12; 1979, No. 776, §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, § 2; 1983, No. 127, § 2; 1983, No. 619, §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 805, § 7; A.S.A. 1947, § 80-1443; Acts 1995, No. 281, § 1; 1997, No. 1053, § 8; 2007, No. 97, § 13; 2009, No. 468, § 18; 2011, No. 45, § 10.

Amendments. The 2007 amendment, in (a)(1), inserted "and reciprocal" and substituted "the member" for "he" twice; added "Following approval by the Arkansas Teacher Retirement System of an application for deferred retirement" at the beginning of (a)(2); substituted "The month following the member's sixtieth birthday" for "His deferred annuity age"

in (a)(2)(A); substituted "the written application is received by the system" for "his written application is received by the Board of Trustees of the Arkansas Teacher Retirement System" in (a)(2)(B); deleted former (a)(3) and redesignated former (a)(4) as present (a)(3); deleted "if his annuity deferment age is sixty (60) or over, or as provided for in § 24-7-702 if his annuity deferment age is under age sixty (60)" at the end of (b); and rewrote (c).

The 2009 amendment subdivided (a)(1); inserted "when the member becomes sixty (60) years of age" in (a)(1)(A); inserted "if the member's being vested is based on the other system service" in (a)(1)(B); deleted (a)(2)(A) and redesignated the remaining text accordingly; deleted "have the right to" in (a)(3); and made related and minor stylistic changes.

The 2011 amendment added (d) and (e).

24-7-708. Employment of retired members by covered employers.

(a) Effective July 1, 2009, after terminating employment under § 24-7-502 or reaching the age of normal retirement, a retirant may:

(1) Accept employment with an employer covered by the Arkansas Teacher Retirement System without a limitation of his or her retirement annuity; and

(2) Continue to receive his or her monthly retirement annuity.

(b) Employers covered by the system that hire an employee who meets the conditions under subsection (a) of this section shall report the hiring of the retirant to the system in a time and a manner that the system may reasonably require.

(c) A retirant who receives monthly benefits and is employed by a covered employer shall not accrue additional service credit.

(d)(1) For a retired member employed in a position covered by the system, the covered employer shall remit the contributions on all salary paid to the retirant in an amount equal to the employer contribution rate applicable to active members.

(2) Contributions shall be paid by the employer and are not the responsibility of the retirant.

(e)(1) The Board of Trustees of the Arkansas Teacher Retirement System shall adopt rules to carry out the provisions of this section.

(2) A covered employer that employs retirants is subject to the rules adopted by the board.

History. Acts 1973, No. 427, § 9; 1975, No. 549, § 13; 1977, No. 541, § 8; A.S.A. 1947, § 80-1443; Acts 1991, No. 43, § 7; 1991, No. 239, § 1; 1995, No. 1293, § 1; 1997, No. 384, § 1; 1999, No. 30, § 1; 2001, No. 1146, § 2; 2005, No. 911, § 1; 2007, No. 97, § 14; 2007, No. 612, § 1; 2007, No. 698, § 1; 2009, No. 743, § 6.

Amendments. The 2007 amendment substituted “an amount equal to the com-

bined employer and employee contribution rate or rates” for “the employer and employee contribution rate” in (f)(5).

The 2007 amendment substituted “six (6) years” for “three (3) years” in (f)(1).

The 2007 amendment substituted “subsections (f) and (g)” for “subsection (f)” in (a), and added (g).

The 2009 amendment rewrote the section.

24-7-709. Disposition of member contributions — Residue.

(a)(1)(A) If a retirant and his or her option annuitants, if any, die before receiving annuity payments equal to the member’s residue amount, then the residue amount shall be paid to such persons as the retirant shall have nominated by written designation duly executed and filed with the Arkansas Teacher Retirement System.

(B) As used in this section, “residue” means the difference between the accumulated contributions and regular interest credited to the retirement reserve account as of the member’s retirement effective date and the total amount of annuities paid.

(2) If a retirant and his or her option annuitants die and the member has failed to designate a beneficiary or if all designated beneficiaries have predeceased the retirant, the residue shall be paid to the retirant’s estate.

(b) If upon the termination of the option annuity no surviving beneficiary designated by the member survives and it is impracticable to make payment to the member’s estate, the residue shall be forfeited to the trust assets of the system subject to any valid claim of the member’s estate under § 24-7-734.

History. Acts 1973, No. 427, § 9; A.S.A. 1947, § 80-1443; Acts 2005, No. 494, § 1; 2007, No. 97, § 15; 2009, No. 468, § 19.

Amendments. The 2007 amendment added (a)(2) and (b)(2); in (a)(1), substituted “If a retirant dies before receiving” for “If a retirant and his or her eligible beneficiary, if any, both dies before they have received,” inserted “and no option annuity becomes payable upon the retirant’s death,” and substituted “the retirant” for “them” and “persons” for “per-

son”; in (b)(1), substituted “If a retirant dies and an option annuity becomes payable at the retirant’s death but the last eligible option beneficiary dies before the retirant and the option beneficiary” for “If the last eligible beneficiary dies before the beneficiary and the retirant” and “beneficiary nominated by the member” for “beneficiary’s estate” at the end; and deleted (c).

The 2009 amendment rewrote the section.

24-7-710. Survivor annuity benefits.

(a) If an active member with five (5) or more years of actual and reciprocal service, including credited service for the year immediately preceding his or her death, dies before the receipt of retirement benefits from the Arkansas Teacher Retirement System, then the benefits provided in this section shall be paid to eligible survivors.

(b)(1)(A)(i) The member's surviving spouse, who was married to the member for at least the two (2) years immediately preceding the member's death, shall receive an annuity computed in the same manner in all respects as if the member had retired on the date of the member's death and elected Option A under § 24-7-706 to provide one hundred percent (100%) survivor annuity benefits, including benefits applicable under § 24-7-713, for his or her spouse.

(ii) The system shall continue to pay any benefits applicable under § 24-7-713 for an eligible surviving spouse, including a spouse who began receiving benefits on or after July 1, 2009.

(B) The surviving spouse's benefits shall begin in the month following the month of the member's death if at the time of the member's death the member had:

(i) Accumulated twenty-five (25) years or more of credited service and qualified as eligible to receive a retirement annuity under §§ 24-7-701 and 24-7-702; or

(ii) Reached sixty (60) years of age and qualified as eligible to receive a retirement annuity under § 24-7-707.

(C) If the surviving spouse is not eligible to receive benefits under subdivision (b)(1)(B) of this section, the surviving spouse's benefits shall begin in the month following the date the member would have been eligible to receive benefits had the member survived.

(D) If the surviving spouse is eligible to receive the survivor annuity and the member had not reached sixty (60) years of age at the time of the member's death, the surviving spouse may elect to defer receipt of the annuity until the member would have reached sixty (60) years of age, and the surviving spouse's benefits shall not be reduced under the early retirement provisions of § 24-7-702.

(E) The surviving spouse's benefits under this section are payable for the surviving spouse's lifetime.

(2) If at the time of the member's death there are no dependent children and the surviving spouse who is eligible to receive the annuity under this subsection files with the system a written waiver of his or her right to the spousal annuity, a lump-sum distribution of the deceased member's accumulated contributions plus regular interest may be made to the surviving spouse.

(c)(1)(A)(i) A surviving dependent child of the member shall receive an annuity in an amount equal to twenty percent (20%) of the member's highest salary year received in covered employment.

(ii) If the member's highest salary year occurs in the year that the member died, the system shall calculate the surviving dependent child's annuity on the basis of a full year of salary by the member.

(B) If a member has more than three (3) surviving dependent children, the aggregate amount of the surviving dependent children's annuity shall not exceed sixty percent (60%) of the member's highest salary year and shall be divided equally among the surviving dependent children.

(2)(A) A child shall be considered a dependent child until he or she reaches eighteen (18) years of age.

(B)(i) However, eligibility for the dependent child annuity shall continue after the child reaches eighteen (18) years of age if the child continues consecutively as a full-time student at an accredited secondary school, college, or university, but in any event, not beyond twenty-three (23) years of age.

(ii) Any child who has been deemed physically or mentally incapacitated by a court of competent jurisdiction is eligible to receive a dependent child annuity for as long as the incapacity exists, regardless of age.

(3) When a dependent child ceases to be a dependent or dies, his or her share of the annuity shall terminate.

(d) For the purposes of § 24-7-709 related to the disposition of residue, any amounts received from the member's deposit account in the form of a survivor annuity under this section shall be considered annuity payments received by the member or his or her designated beneficiary and shall offset any disposition of residue payable under § 24-7-709.

(e) Annuities payable under this section shall begin the first day of the calendar month following the date the survivor annuity is payable as provided in this section.

(f) If the member had previously received benefits from the system and has not repaid in full all amounts payable by him or her to the system, the annuity amounts otherwise provided by this section shall be withheld until the total amount owed to the system is repaid.

(g)(1) For eligibility under this section, a member is considered active for an additional fiscal year following the last fiscal year that the member renders actual service to a covered employer and obtains at least one-fourth ($\frac{1}{4}$) year of service credit.

(2) In addition, a member is considered active for eligibility under this section if in the fiscal year of a member's death, the member earned at least ten (10) days of service credit in each quarter before and including the quarter of the member's death.

(3) Service credit used in calculating any benefits paid under this section means days of service, including paid sick leave covered by the employer.

History. Acts 1973, No. 427, § 9; 1975, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1979, No. 681, §§ 5-12; 1979, No. 776, §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, § 2; 1983, No. 127, § 2; 1983, No. 619, §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 504, § 4; A.S.A. 1947, § 80-1443; Acts 1987, No. 4, § 3; 1997, No. 1053, § 9; 2003, No. 853, § 2; 2005, No. 385, § 8; 2005, No. 494, § 2; 2007, No. 97, § 16;

2009, No. 1324, § 1; 2011, No. 45, § 11; 2011, No. 137, § 3.

Amendments. The 2007 amendment substituted “actual and reciprocal” for “credited” in (a); substituted “the member’s” for “his or her” in the introductory language of (b)(1); substituted “an option” for “joint” in (b)(1)(C); deleted (b)(2) and (3); redesignated former (b)(4) as present (b)(3) and rewrote it; inserted present (b)(4); rewrote (b)(5) and (6), and (c) through (e); and substituted “following the date the survivor annuity is payable as

provided in this section” for “next following the later of the date of the member’s death or a later date specified for commencement of the annuity payments” in (f).

The 2009 amendment rewrote the section.

The 2011 amendment by No. 45 added (b)(1)(A)(ii); and inserted “including benefits applicable under § 24-7-713” in (b)(1)(A)(i).

The 2011 amendment by No. 137 added (g).

24-7-711. Refund of member contributions upon termination.

(a)(1) If a member discontinues covered employment, the member may elect to be paid a refund of his or her contributions and regular interest credited to the member’s deposit account within six (6) months following the date the member’s written application is filed with the system.

(2) Any contributions remaining on deposit shall accrue regular interest at the end of each fiscal year as provided by § 24-7-410(d).

(b)(1) If an active member dies and a survivor annuity is not payable under § 24-7-710, the member’s accumulated contributions and regular interest to the time of payment shall be paid to such persons as the member shall have nominated by a written designation that is executed by the member and filed with the system.

(2) If there are no designated persons surviving the member, the accumulated contributions are payable to the member’s estate.

(3) If no annuity is payable to a dependent child on account of the member’s death and if the sole beneficiary who can receive the annuity is the member’s surviving spouse, then the member’s surviving spouse may elect to receive a refund of accumulated contributions and regular interest paid under this subchapter.

(4) For members dying before July 1, 2011, with an unpaid residual balance, interest on the deceased member’s accumulated contributions under this subsection shall cease to accrue after July 1, 2011.

(5) Interest on a deceased member’s accumulated contributions under this subsection shall cease to accrue on the July 1 after the member’s death.

(c) A member or surviving spouse who elects to receive a refund of member contributions under this section also cancels all the member’s service credit, including noncontributory service credit, in the system.

History. Acts 1973, No. 427, § 9; 1975, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1979, No. 681, §§ 5-12; 1979, No. 776, §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, § 2; 1983, No. 127, § 2; 1983, No. 619,

§§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 805, § 8; A.S.A. 1947, § 80-1443; Acts 2005, No. 494, § 3; 2007, No. 97, § 17; 2009, No. 468, § 20; 2011, No. 136, § 1; 2011, No. 976, § 1.

Amendments. The 2007 amendment inserted “regular” in (a)(2).

The 2009 amendment rewrote the section.

The 2011 amendment by No. 136 added (b)(4) and (5).

The 2011 amendment by No. 976 added (c).

24-7-713. Retirement annuity — Simple cost of living adjustment and monthly benefit stipend.

(a)(1) July 1 of each year, retirants, survivors, participants in the Teacher Deferred Retirement Option Plan, and annuity beneficiaries who have been receiving monthly benefits for the previous twelve (12) months shall receive a simple cost of living adjustment.

(2) The cost of living adjustment under this section is calculated by multiplying one hundred percent (100%) of the member's base retirement annuity times three percent (3%).

(3) The redetermined amount shall not be less than the base amount.

(4) As used in this section, "base amount" means the amount of the benefit payable at retirement plus any one-time increases granted by legislative change after the member's effective date of retirement benefits, excluding the simple cost of living adjustment under this section.

(5) The redetermined amount under this subsection is not considered a benefit enhancement under the limitations under § 24-1-106.

(b)(1)(A) Effective July 1, 1999, subject to the minimum financial conditions set forth in § 24-7-718, retirees, survivors, and beneficiaries shall receive an increase in benefits of not less than fifty dollars (\$50.00) per month.

(B) However, the Board of Trustees of the Arkansas Teacher Retirement System may elect and is granted authority to increase the benefit to retirees in an amount determined by the board, except that the benefit increase shall not exceed seventy-five dollars (\$75.00) per month.

(2)(A) Members retiring after July 1, 1999, but before July 1, 2008, with five (5) or more years of actual service in the Arkansas Teacher Retirement System and their survivors and beneficiaries shall receive an additional benefit of not less than fifty dollars (\$50.00) per month over and above their regular annuity.

(B) Members retiring on or after July 1, 2008, with ten (10) or more years of actual service in the Arkansas Teacher Retirement System and their survivors and beneficiaries shall receive an additional benefit of not less than fifty dollars (\$50.00) per month over and above their regular annuity.

(C) However, the board may elect and is granted authority to increase the additional benefit to members retiring in an amount determined by the board, except that the additional benefit shall not exceed seventy-five dollars (\$75.00) per month.

(3) The board may prorate the benefits provided under this subsection for all members retiring after June 30, 1999, if the member is also eligible for an additional monthly benefit as a result of credited service

under one (1) or more of the other reciprocal systems, as such systems are enumerated in § 24-2-401.

(c) Nothing contained in this section shall require the Arkansas Public Employees' Retirement System to pay any portion of the benefits provided for in this section.

History. Acts 1973, No. 427, § 9; 1975, No. 549, § 8; 1979, No. 776, § 2; 1981, No. 14, § 1; 1983, No. 127, § 2; 1985, No. 162, § 1; A.S.A. 1947, § 70-1443; Acts 1987, No. 802, § 2; 1991, No. 44, § 3; 1999, No. 400, § 1; 1999, No. 1066, § 7; 1999, No. 1590, § 3; 2001, No. 360, § 1; 2001, No. 742, § 2; 2003, No. 347, § 1; 2003, No. 853, § 3; 2007, No. 297, § 1; 2009, No. 468, § 21; 2011, No. 45, §§ 12, 13.

Amendments. The 2007 amendment, in (b), substituted "seventy-five dollars (\$75.00)" for "two hundred dollars (\$200)" in (1)(B) and present (2)(C), inserted "but

before July 1, 2008" in (2)(A), added present (2)(B) and redesignated the following subdivision accordingly, added (4), and made related and stylistic changes.

The 2009 amendment rewrote (a)(1), (a)(2), and (a)(4); deleted (b)(4); and made minor stylistic changes.

The 2011 amendment inserted "participants in the Teacher Deferred Retirement Option Plan" in (a)(1); and, in (b)(3), substituted "all members" for "all individuals" and "the member" for "the individual."

24-7-717. [Repealed.]

Publisher's Notes. This section, concerning rescission of retirement, was repealed by Acts 2011, No. 224, § 1. The section was derived from Acts 1989, No.

39, § 1; 1993, No. 435, § 8; 1993, No. 478, § 1; 2001, No. 481, § 1; 2009, No. 1322, § 1.

24-7-718. Minimum financial conditions for benefit increases.

(a) For an increase in benefit formulas to be effective, the regular annual actuarial valuation for the calendar year immediately preceding the effective date of the increase shall be based upon an investment rate assumption of no more than eight percent (8%) and shall indicate that up to and including a fourteen percent (14%) of pay employer contribution rate is sufficient to amortize all unfunded actuarial accrued liabilities for members over a period of thirty (30) years or less unless the required contribution rate would exceed fourteen percent (14%).

(b) For any increase to be effective on a scheduled date, all increases scheduled for that date must collectively meet the minimum financial conditions.

(c)(1) On any scheduled date that the increases do not collectively meet the minimum financial conditions, the Board of Trustees of the Arkansas Teacher Retirement System shall have the authority to delay the increase until the minimum financial conditions are met.

(2) Such delayed increase shall only be given on a July 1 and shall be the increase set out in §§ 24-7-705(a)(5) [repealed], 24-7-705(a)(6) [repealed], and 24-7-713(b)(1).

History. Acts 1991, No. 44, § 4; 2009, No. 468, § 22.

Amendments. The 2009 amendment, in (a), substituted "fourteen percent

(14%)" for "twelve percent (12%)" and inserted "unless the required contribution rate would exceed fourteen percent (14%)."

24-7-719. Rollover of distributions.

(a) As used in this section:

(1) "Direct rollover" means a payment by the Arkansas Teacher Retirement System to the eligible retirement plan specified by the distributee;

(2)(A) "Distributee" includes a member or former member.

(B) The member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, as it existed on January 1, 2011, are distributees with regard to the interest of the spouse or former spouse;

(3)(A) "Eligible retirement plan" means an eligible plan under section 457(b) of the Internal Revenue Code, as it existed on January 1, 2011, that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into such a plan from the Arkansas Teacher Retirement System individual retirement account described in section 408(a) of the Internal Revenue Code, as it existed on January 1, 2011, and an individual retirement annuity described in section 408(b) of the Internal Revenue Code, as it existed on January 1, 2011, an annuity plan described in section 403(a) of the Internal Revenue Code, as it existed on January 1, 2011, an annuity contract described in section 403(b) of the Internal Revenue Code, as it existed on January 1, 2011, or a qualified plan described in section 401(a) of the Internal Revenue Code, as it existed on January 1, 2011, that accepts the distributee's eligible rollover distribution.

(B) The definition of eligible retirement plan shall also apply in the case of distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Internal Revenue Code, as it existed on January 1, 2011; and

(4)(A) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(i) Any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for:

(a) The life or life expectancy of the distributee;

(b) The joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary; or

(c) A specified period of ten (10) years or more;

(ii) Any distribution to the extent such a distribution is required under section 401(a)(9) of the Internal Revenue Code, as it existed on January 1, 2011;

(iii) Any hardship distribution;

(iv) The portion of any other distribution or distributions that are not includible in gross income; and

(v) Any other distribution that is reasonably expected to total less than two hundred dollars (\$200) during a year.

(B) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such a portion may be transferred only to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code, as it existed on January 1, 2011, or to a qualified defined contribution plan described in section 401(a) or section 403(a) of the Internal Revenue Code, as it existed on January 1, 2011, that agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

(b)(1) Beginning January 1, 1993, a member or other eligible beneficiary receiving a distribution from the system may elect a direct rollover of the distribution if the funds consist of an eligible rollover distribution.

(2) The amount under subdivision (b)(1) of this section shall be paid to the trustee of the eligible retirement plan.

(c) Subsection (b) of this section applies to distributions made under §§ 24-7-709 — 24-7-711, 24-7-716, 24-7-720, and 24-7-1308.

(d) This section does not require the system to authorize a direct rollover of a distribution if:

(1) The distribution is not eligible to be treated as a direct rollover under the Internal Revenue Code; or

(2) The depository institution receiving the distribution is not eligible to receive a direct rollover under the Internal Revenue Code.

History. Acts 1993, No. 972, § 1; 2007, No. 97, § 18; 2009, No. 468, § 23; 2011, No. 45, § 14.

Amendments. The 2007 amendment deleted “all or part of” preceding “his eligible rollover distribution” in (b); and added “24-7-720, and 24-7-1308” and made a related change at the end of (c).

The 2009 amendment substituted “eligible benefit plan” for “employer benefit plan” in (a)(1); rewrote (b); added (d); and made minor stylistic changes.

The 2011 amendment rewrote (a)(1); inserted present (a)(2) and redesignated the remaining subdivisions accordingly; and rewrote present (a)(3) and (4).

24-7-720. Lump-sum benefit.

(a)(1)(A) If prior to July 1, 2007, an active member of the Arkansas Teacher Retirement System with five (5) or more years of actual service, including actual service for the year immediately preceding the member’s death, dies in employer service before retirement, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid to such persons as he or she shall have nominated by written designation duly executed and filed with the Board of Trustees of the Arkansas Teacher Retirement System.

(B) If on or after July 1, 2007, an active member of the Arkansas Teacher Retirement System with ten (10) or more years of actual

service, including actual service for the year immediately preceding the member's death, dies in employer service before retirement, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid to such persons as he or she shall have nominated by written designation duly executed and filed with the board.

(2) If there are no designated persons who survive the member, the lump sum shall be paid to the member's estate.

(b)(1) If a retired member of the system dies prior to July 1, 2007, and the retired member accrued five (5) or more years of actual service, including actual service for the year immediately preceding the member's death, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid to such persons as he or she shall have nominated by written designation duly executed and filed with the board.

(2) If a retired member of the system dies on or after July 1, 2007, and the retired member accrued ten (10) or more years of actual service, including actual service for the year immediately preceding the member's death, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid to such persons as he or she shall have nominated by written designation duly executed and filed with the board.

(3) If there are no designated persons who survive the member, the lump sum shall be paid to the member's estate.

(c) The amount of the lump-sum payments under this section shall be set periodically and not more often than annually by rules of the board as it determines is actuarially appropriate for the system.

(d)(1) For determining eligibility for the lump-sum death benefit under this section, "actual service" means service rendered in a position covered by the system.

(2) "Actual service" does not include purchased or free credited service or reciprocal service.

(e) No benefit enhancement provided for by this section shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by this section shall be implemented by any publicly supported system that has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

(f)(1) Pursuant to the board's fiduciary duty, the board shall implement this benefit provision for lump-sum payments by either making the lump-sum payments directly from the system or by purchasing a group life insurance policy for the benefit of system members.

(2) A lump-sum payment under this subsection is intended to be exempt from income tax.

(g) Effective July 1, 2009, a retired member of the system who retired on or before July 1, 2007, and had five (5) or more years of actual service credited in his or her account at retirement shall have the lump-sum death benefit paid upon the retired member's death under subsection (b) of this section.

(h) A lump-sum payment under this section is intended to be exempt from income tax.

(i) For eligibility under this section, a member is considered active for an additional fiscal year following the last fiscal year that the member renders actual service to a covered employer and obtains at least one-fourth ($\frac{1}{4}$) year of service credit.

(j)(1)(A) If a member accrues a minimum of fifteen (15) years of actual, contributory service, regardless of noncontributory service accrued in combination with the contributory service, the member shall receive the maximum lump-sum death benefit as determined by the board under this section.

(B) Upon the member's death, the lump-sum death benefit shall be paid to persons the member selects by written designation executed and filed with the board.

(2) The board may set a lump-sum benefit for noncontributory service as the board deems appropriate.

History. Acts 1997, No. 1022, § 1; 1999, No. 312, § 1; 2001, No. 359, §§ 1, 2; 2005, No. 494, § 4; 2007, No. 296, § 1; 2009, No. 425, § 1; 2009, No. 1323, § 1; 2011, No. 45, § 15; 2011, No. 137, § 4; 2011, No. 977, § 1.

Amendments. The 2007 amendment substituted "actual service" for "credited service" throughout the section; in (a)(1), added present (B) and redesignated the remaining subdivisions accordingly, in (A) inserted "prior to July 1, 2007" and substituted "ten thousand dollars (\$10,000)" for "fifteen thousand dollars (\$15,000)," and substituted "six thousand six hundred and sixty-seven dollars (\$6,667)" for "ten thousand" in (2); in (b), in (1)(A), inserted "and, effective July 1, 2007, who had ten (10) or more years of actual service" and substituted "ten thousand dol-

lars (\$10,000)" for "fifteen thousand dollars (\$15,000), and substituted "six thousand six hundred and sixty-seven dollars (\$6,667)" for "ten thousand" in (2); deleted (c) and redesignated the following subdivision; added present (d); and made related changes.

The 2009 by No. 425 amendment added (g).

The 2009 amendment by No. 1323 deleted (a)(1)(C), (a)(1)(D), and (a)(3); rewrote (a)(2), (b), (c), and (f); and added (g).

The 2011 amendment by No. 45 deleted "exact" following "The" near the beginning of (c).

The 2011 amendment by No. 137 added (i).

The 2011 amendment by No. 977 added (j).

24-7-721 — 24-7-724. [Repealed.]

Publisher's Notes. These sections, concerning increases in monthly benefits and limitation on benefit enhancement of Acts 1997, No. 442 and Acts 1997, No. 992, were repealed by Acts 2009, No. 468, § 24. They were derived from the following sources:

24-7-721. Acts 1997, No. 442, § 1.

24-7-722. Acts 1997, No. 442, § 2.

24-7-723. Acts 1997, No. 992, § 4; 1999, No. 31, § 1.

24-7-724. Acts 1997, No. 992, § 5.

24-7-725. Limitation on benefit enhancement of Acts 1997, No. 1074.

No benefit enhancement provided by § 24-7-702 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortiza-

tion. No benefit enhancement provided for by § 24-7-702 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

History. Acts 1997, No. 1074, § 2.

A.C.R.C. Notes. This section is set out above to correct a codification error that

appears in the bound volume. The bound volume incorrectly lists this section as having been repealed.

24-7-727. Compounded cost of living adjustments.

(a)(1) After July 1, 1999, the Board of Trustees of the Arkansas Teacher Retirement System may compound the cost of living adjustment for all retirants and participants in the Teacher Deferred Retirement Option Plan who have received a monthly retirement benefit for the prior twelve-month period.

(2) The amount of the benefit under this section shall be redetermined effective each July 1, and the redetermined amount shall be payable for the ensuing year.

(3) The simple cost of living adjustment is not payable in the year or years that the board implements the compounded cost of living adjustment.

(b)(1) The redetermined amount shall be the amount of the benefit payable as of the immediately preceding June 30 increased by three percent (3%).

(2) The redetermined amount shall become the base amount for determining all future cost of living adjustments.

(c) The benefit provisions provided in subsections (a) and (b) of this section shall be implemented according to rules of the board as is actuarially appropriate for the Arkansas Teacher Retirement System.

(d) Before increasing a benefit under this section, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs.

History. Acts 1999, No. 404, § 1; 2009, No. 468, § 25; 2011, No. 45, § 16.

Amendments. The 2009 amendment, in (a), inserted (a)(3), redesignated the remaining text accordingly, and rewrote (a)(1); inserted (b)(2) and redesignated the

remaining text; divided (c) into (c) and (d); and made related and minor stylistic changes.

The 2011 amendment inserted "and participants in the Teacher Deferred Retirement Option Plan" in (a)(1).

24-7-730. Required distributions.

(a)(1) Notwithstanding the provisions of this subchapter regarding the required dates of distribution of benefits under the Arkansas Teacher Retirement System to former members, the distribution of a former member's benefits under the system shall in any event be made or begun by April 1 of the calendar year following the later of the

calendar year in which the member attains age seventy and one-half (70½) or the calendar year in which the member retires.

(2) Distributions shall be made over the life of the member or over the lives of the member and the member's designated beneficiary or over a period not extending beyond the life expectancy of the member or the life expectancy of the member and the member's designated beneficiary.

(b)(1) If the member dies after the distribution of benefits under the system commences, the distribution of the benefits shall be continued in accordance with the form of benefit in effect prior to the member's death.

(2)(A) If the member dies before the distribution of benefits under the system commences, the entire death benefit, if any, due as a result of the member's death shall be distributed no later than five (5) years after the member's death except to the extent that a written election is made to receive distributions in accordance with subdivisions (b)(2)(B) or (C) of this section.

(B) If any portion of the member's benefit is payable to a designated beneficiary, distributions shall be made in substantially equal installments over the life or life expectancy of the designated beneficiary commencing no later than one (1) year after the member's death.

(C) If the designated beneficiary is the member's surviving spouse, the date distributions required to begin in accordance with subdivision (b)(2)(A) of this section shall not be earlier than the date on which the member would have attained age seventy and one-half (70½). If the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the member.

(D) Notwithstanding the provisions of this subchapter, all distributions of benefits under the system shall comply with the requirements of section 401(a)(9) of the Internal Revenue Code and the regulations under the Internal Revenue Code, including United States Treasury Regulation § 1.401(a)(9)-2, and those provisions shall override any distribution options in this chapter that are inconsistent with section 401(a)(9) of the Internal Revenue Code.

History. Acts 2001, No. 155, § 4; 2005, No. 71, § 3.

Effective Dates. Acts 2001, No. 155, § 5: Applies retroactively to January 1, 2001.

U.S. Code. Section 401(a)(9) of the federal Internal Revenue Code of 1986, referred to in subdivision (b)(2)(D), is codified as 26 U.S.C. 401(a)(9).

24-7-731. Forfeitures.

Notwithstanding the provisions of this subchapter, any forfeitures arising from severance of employment, death, or for any other reason shall not be applied to increase the benefit any member would otherwise receive under the Arkansas Teacher Retirement System at any time prior to the termination of the system or the complete discontinuance of employer contributions thereunder.

History. Acts 2001, No. 155, § 4. § 5: Applies retroactively to January 1,
Effective Dates. Acts 2001, No. 155, 2001.

24-7-732. System termination or discontinuance — Vesting.

Notwithstanding the provisions of this subchapter, members' accrued benefits under the Arkansas Teacher Retirement System shall be one hundred percent (100%) vested:

- (1) To the extent those benefits are then funded, in the event there is a partial or complete termination of the system or in the event of a complete discontinuance of employer contributions to the system; and
- (2) Upon a member's attaining normal retirement age.

History. Acts 2001, No. 155, § 4; 2011, **Effective Dates.** Acts 2001, No. 155,
 No. 45, § 17. § 5: Applies retroactively to January 1,
 2001.

Amendments. The 2011 amendment added "Vesting" to the end of the section heading; subdivided the section by inserting the (1) designation; and added (2).

24-7-733. Limitation on benefits.

(a)(1) Notwithstanding the provisions of this subchapter, benefits paid under the Arkansas Teacher Retirement System shall not exceed the limitations of section 415 of the Internal Revenue Code that are applicable to governmental retirement plans, including without limitation the dollar limitations in section 415(b)(1)(A) of the Internal Revenue Code.

(2) The annual benefits, as may be increased in subsequent years, that are paid to retirants by the system shall not exceed the limitations under section 415(b) of the Internal Revenue Code applicable to the annuity effective date under section 415(d) of the Internal Revenue Code.

(b) For purposes of determining compliance with section 415 of the Internal Revenue Code, "compensation" is defined as set forth in United States Treasury Regulation § 1.415-2(d)(2), as it existed on January 1, 2009, and includes any amount that is not includible in the gross income of the member under section 132(f)(4) of the Internal Revenue Code, as it existed on January 1, 2011.

History. Acts 2001, No. 155, § 4; 2005, Code, as it existed on January 1, 2011," at
 No. 71, § 4; 2009, No. 1202, § 1; 2011, No. the end of (b).
 45, § 18.

Amendments. The 2009 amendment, in (a), inserted (a)(2) and redesignated the existing text accordingly; made a minor stylistic change in (a)(1); and rewrote (b).

The 2011 amendment added "and includes any amount that is not includible in the gross income of the member under section 132(f)(4) of the Internal Revenue

Effective Dates. Acts 2001, No. 155, § 5: Applies retroactively to January 1, 2001.

U.S. Code. Sections 415, 415(b)(1)(A), 402(g)(3), 125 and 457 of the federal Internal Revenue Code of 1986, referred to in this section, are codified as 26 U.S.C. 415, 415(b)(1)(A), 402(g)(3), 125 and 457 respectively.

24-7-734. Lost payees.

(a)(1) Notwithstanding the provisions of this subchapter, each member and each beneficiary of a deceased member shall file with the Board of Trustees of the Arkansas Teacher Retirement System from time to time in writing the post office address and each change of post office address of the member or beneficiary.

(2) Any communication addressed to a member or beneficiary at the last address filed with the board or, if no address has been filed, then at the last address as indicated on the records of the employer of the member or beneficiary, shall be binding on the member or beneficiary for all purposes of the Arkansas Teacher Retirement System, and neither the board nor the system shall be obligated to search for or ascertain the whereabouts of any member or beneficiary.

(b)(1) If the board is unable within five (5) years after payment of a benefit is due to a member or beneficiary to make the payment because it cannot ascertain the whereabouts of the member or the identity and whereabouts of the beneficiary or personal representative by mailing to the last known address shown on the board's records and neither the member, the beneficiary, or personal representative has made written claim therefor before the expiration of the five (5) years, then, and in each case, the board shall direct that the amount shall be forfeited to the trust assets of the Arkansas Teacher Retirement System.

(2) However, the amount shall be reinstated if the member or beneficiary or personal representative makes a valid claim therefor upon presentation of proper identification.

(c) If a provision of this section conflicts with a provision of § 18-28-201 et seq., the provision of this section supersedes the conflicting provision of § 18-28-201 et seq.

History. Acts 2001, No. 155, § 4; 2005, § 5: Applies retroactively to January 1, No. 385, § 9.

Effective Dates. Acts 2001, No. 155,

24-7-735. Contract buyout agreement — Calculation of benefits.

(a) A member shall not accumulate additional service credit in the Arkansas Teacher Retirement System during the time that payments under a contract buyout agreement or court-ordered payments are paid to the member by the employer unless the member continues to work on-site for the employer.

(b) Employer contributions shall be payable to the system on payments made under subsection (a) of this section as if the payments were made under § 24-7-708 if the member does not continue to work on-site for the employer.

History. Acts 2011, No. 163, § 2.

24-7-736. Calculation of final average salary.

(a) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code of 1986, as it existed on January 1, 2011, shall not be used for purposes of calculating final average salary on which benefits under the Arkansas Teacher Retirement System shall be based.

(b)(1) The limitation on compensation for an eligible employee shall not be less than the amount that was allowed to be taken into account under the system as in effect on July 1, 1993.

(2) As used in subdivision (b)(1) of this section, "eligible employee" means an individual who was a member of the system before the first plan year beginning after December 31, 1995.

(c)(1) The Board of Trustees of the Arkansas Teacher Retirement System shall set the applicable number of years to be used in computing final average salary for retirement benefits.

(2)(A) Full service years shall be used in the calculation unless the member has a partial service year that is higher than a full service year.

(B) If the member does not have full service years for the total years of service used in the calculation of final average salary, then the board may establish by rule a fair base year for a member's final average salary for purposes of comparison under subdivision (c)(3) of this section.

(3)(A) The applicable number of highest salary years shall be ranked from lowest to highest remuneration.

(B) The lowest remuneration year in the ranking shall be the base year.

(C) The next highest ranked remuneration year shall be compared to the base year.

(D) The next highest year's value in the calculation of final average salary shall not exceed one hundred twenty percent (120%) of the base year, unless the difference in value between the next-highest year and the base year is five thousand dollars (\$5,000) or less.

(4) After comparison of the base year to the next-highest year, any required reduction to the next-highest year shall be made.

(5) The next highest year, with any required reduction, becomes the new base year to compare to the next succeeding highest remuneration year in the ranking until all years in the ranking have been compared to its base and reduced as necessary under subdivision (c)(3) of this section.

(6) The total value of the base years shall then be averaged to determine final average salary.

(d) If a member has a break in covered employment for eight (8) years or more between any of the member's highest salary years used in the calculation of final average salary, then subdivision (c)(3)(D) of this section shall not apply to the next highest salary year in the formula.

(e) The system may settle any dispute concerning an employee's salary for purposes of the system.

History. Acts 2011, No. 225, § 2.

24-7-737. Salary contracts — Additional remuneration.

(a) A member may establish salary earned under a contract that is bought-out by a covered employer by paying employee and employer contributions plus interest.

(b) In determining salary, a retirement annuity may be based on service credit covered by the purchased contract.

(c)(1) Employment contracts purchased by a covered employee or won through litigation that results in either a consent agreement, judgment, or decree may be counted as salary upon payment of all required member and employer contributions, including interest, to the Arkansas Teacher Retirement System.

(2) A member who receives remuneration under a regular contract and a purchased contract or under both a regular contract and a contract won through litigation, consent agreement, judgment, or decree shall have the greater of the two (2) amounts considered as salary for the purposes of determining the final average salary of the member.

(d) If a member's salary includes remuneration paid other than in cash, the cash value of the remuneration is considered in the amount the employer is required to report for federal income tax purposes.

(e) A contributory member's contributions and an employer's contributions are required on covered salary, including:

(1) Contributions that are paid concurrently with other remuneration for another covered employer or used in calculating member benefits; and

(2) Salary that is paid concurrently with other remuneration from another covered employer, even if the salary is not used in calculating member benefits.

(f) Retirement annuities may be based on service credit covered by a purchased contract.

History. Acts 2011, No. 225, § 2.

SUBCHAPTER 8 — ALTERNATE PLAN FOR STATE COLLEGES

SECTION.

24-7-801. Definitions.

24-7-807. Participation in plan.

SECTION.

24-7-808. Contributions.

Effective Dates. Acts 2001, No. 1784, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that that certain staff members of the technical colleges, post-secondary vocational-technical schools and the Department of Workforce Educa-

tion are unable to achieve an equitable retirement under the current provisions of Arkansas law for an alternate retirement plan; that the retirement laws regarding alternate retirement plans in Arkansas need to be changed to solve this inequitable situation; and that those laws need

to be amended and this act needs to become effective at the beginning of the state's fiscal year to promote the proper operation of the vocational-technical colleges and schools in Arkansas. Therefore,

an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

24-7-801. Definitions.

As used in this subchapter:

(1) "Alternate retirement plan" means a retirement plan based on the purchase of contracts providing retirement and death benefits for the employees of Arkansas State University, the department employees, and employees of Arkansas' state-supported universities, colleges, or junior colleges that are not a part of the University of Arkansas System;

(2) "Board" means the governing body of a college;

(3) "College" means any one (1) of the state-supported universities, colleges, and junior colleges not a part of the University of Arkansas System, and Arkansas State University;

(4) "Department employees" means the Director of the Department of Higher Education and the professional education employees of the Department of Higher Education;

(5) "Retirement system" means the Arkansas Teacher Retirement System;

(6) "Staff members" means any employee of a college or university who is eligible for membership in any retirement plan;

(7) "State" means the State of Arkansas; and

(8) "State board" means the Arkansas Higher Education Coordinating Board.

History. Acts 1967, No. 436, § 1; A.S.A. 1947, § 80-1457; Acts 1991, No. 511, § 1; 2001, No. 765, § 1.

24-7-807. Participation in plan.

Participation in an alternate retirement plan established pursuant to this subchapter shall be as follows:

(1) Any staff member employed or appointed by a college or university on or after the establishment of its alternate retirement plan shall participate in the plan or in the Arkansas Teacher Retirement System;

(2) Any staff member employed or appointed by a college or university prior to July 1, 1969, who is a member of the retirement system shall continue in that membership or shall participate in the alternate retirement plan, as provided in this subchapter;

(3)(A) Any staff member employed or appointed by a college or university with less than ten (10) years of member service in the retirement system may elect to terminate his or her membership in

the retirement system and participate in the alternate retirement plan established by the employing college or university.

(B) The election shall be in writing and filed with the retirement system and the disbursing officer of the employing college or university within one (1) year after he or she becomes eligible to participate in the alternate retirement plan, except that, on or after July 1, 1993, until December 31, 1993, any staff member employed or appointed by a college or university who has less than ten (10) years of member service in the retirement system and who has not already so elected may elect to terminate his or her membership in the retirement system and participate in the alternate retirement plan established by the employing college or university. The election shall be in writing and filed with the retirement system and the disbursing officer of the employing college or university.

(C) All accumulated contributions to the credit of the staff member in the members' deposit account which is maintained pursuant to the provisions of § 24-7-406 shall be returned to the staff member, and all of his or her credited service under the retirement system shall be cancelled;

(4)(A)(i) Any staff member employed or appointed by a college or university with five (5) or more years of actual service who elects to participate only in the alternate retirement plan and who has left his or her contributions in the retirement system shall be eligible to receive an annuity on or after attaining sixty (60) years of age and on his or her retirement from covered employment.

(ii) The amount of the annuity shall be determined by the benefit formula of the retirement system at the time of his or her retirement.

(B) The election authorized under subdivision (4)(A) of this section shall be made in writing and filed with the retirement system and with the disbursing officer of the employing college or university on or before July 1 of the year in which the person makes the election to participate in the alternate retirement plan.

(C) The person's annuity shall begin on the first day of the month following the date his or her application for retirement is filed with the board of trustees on or after his or her attainment of age sixty (60);

(5)(A)(i) Any Department of Higher Education employee who transferred from another state department covered by a state-supported retirement system may elect to participate in an alternate retirement plan.

(ii) The employee shall file written notice of his or her election with the Director of the Department of Higher Education.

(B)(i) Any department employee with five (5) or more years of actual service who elects to participate only in the alternate retirement plan and who has left his or her contributions in the retirement system shall be eligible to receive an annuity on or after attaining the normal retirement age and on his or her retirement from covered employment.

(ii) The amount of the annuity shall be determined by the benefit formula of the retirement system at the time of his or her retirement.

(C)(i) The election authorized under this subdivision (5) shall be made in writing and filed with the retirement system and with the director on or before July 1 of the year in which the person makes the election to participate in the alternate retirement plan.

(ii) The person's annuity shall begin on the first day of the month following the date his or her application for retirement is filed with the board of trustees on or after his or her attainment of normal retirement age and on his or her retirement from covered employment.

(D)(i) Effective July 1, 2001, staff members who elect to participate in an alternate retirement plan may elect to become members of the retirement system.

(ii) Service credit forfeited while a member of an alternate retirement plan cannot be established in the retirement system.

(iii) The election to withdraw from the alternate retirement plan and become a member of the retirement system shall be made by December 31, 2001, and notice of the election shall be made in writing and filed with the retirement system and the disbursing officer of the employing college or university by December 31, 2001.

(6)(A) Each college or university shall provide to each new employee of the college or university a written document explaining to the employee each of his or her retirement plan options.

(B) The written document shall contain a line for the employee's signature verifying that he or she understands his or her retirement plan options.

(C) The signed document shall be added to the employee's personnel file.

History. Acts 1967, No. 436, § 4; 1969, No. 232, § 1; 1969, No. 622, § 1; 1975, No. 235, § 1; 1979, No. 227, § 1; A.S.A. 1947, § 80-1460; Acts 1991, No. 511, § 5; 1993, No. 299, § 1; 1995, No. 332, § 1; 1997, No.	944, § 1; 1997, No. 1053, § 10; 1999, No. 908, § 1; 2001, No. 1784, § 1; 2007, No. 831, § 1.
	Amendments. The 2007 amendment added (6).

24-7-808. Contributions.

(a)(1) Any college or university which elects to establish and maintain an alternate retirement plan, and the Arkansas Higher Education Coordinating Board if it so elects, shall contribute to that plan on behalf of each staff member who elects to participate in the alternate retirement plan, or employee of the Department of Higher Education, six percent (6%) of his or her total regular compensation during the continuance of his or her employment.

(2) Each staff member who elects to participate in the alternate retirement plan, or department employee, at the discretion of the college or university, shall also contribute thereto six percent (6%) of his or her total regular compensation.

(b)(1) At its discretion, the department, college, or university may contribute a minimum of an additional four percent (4%) of the staff member's total regular compensation.

(2) The department, college, or university may contribute an amount so that the percentage rate in subdivision (a)(1) of this section plus the additional rate in subdivision (b)(1) of this section equals the total employer contribution rate under the Arkansas Teacher Retirement System if the college or university determines that sufficient funds are available to pay that contribution rate.

(3) Each staff member may be required to match that additional contribution by contributing a percentage of his or her total regular compensation as determined by the department, college, or university.

(c) In addition to the contributions defined in subsections (a) and (b) of this section, the department or any college or university which elects to establish and maintain an alternate retirement plan may permit a newly eligible employee who elects to establish and maintain an alternate retirement plan and may permit a newly eligible employee who elects to participate in an alternate retirement plan to make incremental increases in plan contributions to reach the required contribution level by completion of the fourth year of participation in the alternate plan.

(d) Payment of contributions authorized by this section shall be made by the disbursing officer of the college or university and by the state official charged with the duty of paying salaries to department employees to the designated companies in accordance with the provisions of this section.

History. Acts 1967, No. 436, § 5; 1969, No. 232, § 2; 1969, No. 622, § 2; 1979, No. 726, § 1; A.S.A. 1947, § 80-1461; Acts 1991, No. 511, § 6; 2001, No. 765, § 2; 2005, No. 1287, § 1.

SUBCHAPTER 9 — ALTERNATE PLAN FOR VOCATIONAL-TECHNICAL SCHOOLS

SECTION.

24-7-907. Participation in plan.

Effective Dates. Acts 2001, No. 1784, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that that certain staff members of the technical colleges, post-secondary vocational-technical schools and the Department of Workforce Education are unable to achieve an equitable retirement under the current provisions of Arkansas law for an alternate retirement plan; that the retirement laws regarding alternate retirement plans in Arkansas

need to be changed to solve this inequitable situation; and that those laws need to be amended and this act needs to become effective at the beginning of the state's fiscal year to promote the proper operation of the vocational-technical colleges and schools in Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

24-7-907. Participation in plan.

Participation in an alternate retirement plan established pursuant to this subchapter shall be as follows:

(1) All staff members shall participate in either the Arkansas Teacher Retirement System or an alternate retirement plan or may participate in both, but participation in both shall be limited to the circumstances described in subdivision (2) of this section;

(2) Any staff member who has become fully vested in the retirement system may:

(A) Continue as an active member of the retirement system;

(B) Discontinue contributing to the retirement system, thus becoming an inactive member of the retirement system, and participate instead in an alternate retirement plan. Under those circumstances, the staff member would be both an inactive member of the retirement system and an active member of the alternate retirement plan; or

(C) Participate in an alternate retirement plan and receive all accumulated contributions to the credit of the staff member in the members' deposit account which is maintained pursuant to the provisions of § 24-7-406 and have the member's credited service under the retirement system cancelled;

(3) Any staff member who has participated in the retirement system for a period which is insufficient to allow for full vesting of that staff member's retirement system benefits may:

(A) Continue as an active member of the retirement system;

(B) Discontinue membership in the retirement system and transfer from the retirement system into his or her account with the alternate retirement plan, i.e., roll over all contributions which the staff member has previously made to the retirement system; or

(C) Participate in the alternate retirement plan and receive all accumulated contributions to the credit of the staff member in the members' deposit account which is maintained pursuant to the provisions of § 24-7-406 and have the member's credited service under the retirement system cancelled;

(4)(A) No staff member may participate in an alternate retirement plan without giving prior written notice of his or her election to participate in the alternate retirement plan.

(B) The notice of election shall be in writing on a form established by the division and filed with both the Director of the Department of Career Education and the retirement system.

(C) New staff members shall make the election within ninety (90) days after the date of their employment;

(5)(A) Effective July 1, 2001, staff members who elect to participate in an alternate retirement plan may elect to become members of the retirement system.

(B) Service credit forfeited while a member of an alternate retirement plan cannot be established in the retirement system.

(C) The election to withdraw from the alternate retirement plan and become a member of the retirement system shall be made by

December 31, 2001, and notice of the election shall be made in writing to the director and the retirement system by December 31, 2001.

History. Acts 1983, No. 480, § 4; 1985, No. 250, § 1; A.S.A. 1947, § 80-1469; Acts 1997, No. 944, § 2; 1999, No. 908, § 2; 2001, No. 1784, § 2.
1993, No. 979, § 1; 1995, No. 332, § 2;

SUBCHAPTER 12 — TAX-DEFERRED SAVINGS PROGRAMS FOR THE MEMBERS OF THE ARKANSAS TEACHER RETIREMENT SYSTEM

SECTION.

24-7-1201 — 24-7-1206. [Repealed.]

Effective Dates. Acts 2009, No. 468, § 28; July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pension policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement

System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

24-7-1201 — 24-7-1206. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 2009, No. 468, § 26. The subchapter was derived from the following sources:

24-7-1201. Acts 1993, No. 369, § 1.

24-7-1202. Acts 1993, No. 369, § 2.

24-7-1203. Acts 1993, No. 369, § 3.

24-7-1204. Acts 1993, No. 369, § 5.

24-7-1205. Acts 1993, No. 369, § 4.

24-7-1206. Acts 1993, No. 369, § 6.

SUBCHAPTER 13 — TEACHER DEFERRED RETIREMENT OPTION PLAN

SECTION.

24-7-1301. Election to participate — Conditions.

24-7-1302. Application — Review.

24-7-1303. Contributions to Arkansas Teacher Retirement System.

24-7-1305. Benefits.

24-7-1306. Amount of deposits.

24-7-1307. Account — Credit.

24-7-1308. Termination of participation in Teacher Deferred Re-

SECTION.

tirement Option Plan — Distribution options.

24-7-1310. Death of participant.

24-7-1311. Term of participation in Teacher Deferred Retirement Option Plan.

24-7-1314. Early participation.

24-7-1316. Funding objectives of Teacher Deferred Retirement Option Plan — Cost neutrality.

Effective Dates. Acts 2001, No. 461, § 7: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is a necessity to set a normal retirement age for eligibility for retirement benefits in order to maintain the integrity of the Arkansas Teacher Retirement System; and that changes in legal provisions of the retirement system can most effectively be managed at the beginning of the state's fiscal year; and therefore this act should take effect with the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 991, § 2: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Teacher Deferred Retirement Option Plan is not presently cost neutral; that certain changes in the law governing plan contributions for members who reach normal retirement age or who have more than thirty (30) years of service and whose effective date in the plan is on or after September 1, 2003 are necessary to make it cost neutral; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2003, No. 992, § 2: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Teacher Deferred Retirement Option Plan is not presently cost neutral; that certain changes in the law governing employer contributions are necessary to make it cost neutral; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2005, No. 188, § 5: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that current Arkansas laws concerning the Teacher Retirement Deferred Option plan require clarity; that the nature of existing laws concerning the Teacher Retirement Deferred Option Plan complicates the operation of the Arkansas Teacher Retirement System and hinders the system in its efforts to serve its members; and that the most effective time to make change to the system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 298, § 8: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the Arkansas Teacher Retirement System regarding the deferred retirement option plan require revision; that revisions are necessary to ensure the effective and efficient operation of the system; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 470, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2009, No. 743, § 8: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain pro-

visions of the Arkansas Teacher Retirement System Act are badly in need of revision and updating to bring them into conformance with sound public pension policy; that such revision and updating is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 45, § 22: Feb. 16, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System assets and accounting are complex, and the system must be able to appropriately manage the system members accounts and benefits; that many of these technical corrections are currently the policy of the Board of Trustees of the Arkansas Teacher Retirement System and should be codified to reflect that policy; and that this act is immediately necessary to maintain an orderly system of benefits

for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 162, § 4: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that members should have flexibility in electing how much of their plan they want to keep in the system to enable them to make wise investment decisions for their retirement; that plan deposits are made at the beginning of each fiscal year; and that this act is necessary to prevent great difficulty in administering benefits for the members of the system. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

24-7-1301. Election to participate — Conditions.

(a) In lieu of terminating employment and accepting a service retirement benefit pursuant to § 24-7-101 et seq., any person who is a member of the Arkansas Teacher Retirement System and who meets the conditions specified in subsection (b) of this section may elect to participate in the Teacher Deferred Retirement Option Plan and to defer the receipt of retirement benefits in accordance with the provisions of this subchapter.

(b) The condition required for participation in the plan is that the member must have at least thirty (30) years of service credit in the system.

(c) The Board of Trustees of the Arkansas Teacher Retirement System may promulgate rules necessary for the orderly administration

of the plan, including without limitation the rules for eligibility for continuance of deposits for part-time employment.

History. Acts 1995, No. 1096, § 1; **Amendments.** The 2011 amendment 2011, No. 162, § 1. added (c).

24-7-1302. Application — Review.

(a) To participate in the Teacher Deferred Retirement Option Plan, the member shall submit a plan application on a form required by the Board of Trustees of the Arkansas Teacher Retirement System.

(b)(1) The member's plan application shall be reviewed by the system within a reasonable period of time to determine whether or not the member meets the eligibility requirements under this subchapter.

(2) The member's plan date shall be July 1 next following the determination that the member is eligible for plan participation.

(3) A plan application received by the system after May 31 before the beginning of a fiscal year on July 1 shall not be eligible for participation in the plan until the following July 1.

(c) The member may withdraw his or her plan application if notice to withdraw is received by the system no later than two (2) calendar months after the member's plan date.

History. Acts 1995, No. 1096, § 1; The 2011 amendment rewrote (a); in 1997, No. 118, § 1; 2007, No. 298, § 1; (b)(1), inserted "by the system", substituted "to determine" for "and a determination shall be made", and "under" for "specified in"; and added (b)(3) and (c). 2011, No. 45, § 19.

Amendments. The 2007 amendment rewrote (b)(2).

24-7-1303. Contributions to Arkansas Teacher Retirement System.

(a)(1) When a member begins participation in the Teacher Deferred Retirement Option Plan, member contributions to the Arkansas Teacher Retirement System shall cease.

(2) Until and on August 31, 2003, employer contributions on behalf of the members participating in the Teacher Deferred Retirement Option Plan that are due the system may be retained by the school districts for the purposes under subdivision (b)(1) of this section.

(3)(A)(i) Beginning September 1, 2003, for members whose effective date in the Teacher Deferred Retirement Option Plan is before September 1, 2003, the employer contribution rate to the system on behalf of all members in the Teacher Deferred Retirement Option Plan shall recommence at the rate of:

(a) One percent (1%) for the period from July 1, 2003, through June 30, 2005;

(b) Three percent (3%) for the period from July 1, 2005, through June 30, 2007;

(c) Six percent (6%) for the period from July 1, 2007, through June 30, 2009.

(ii) After July 1, 2009, the covered employer shall remit the contributions on all salary paid to the T-DROP participants in amount equal to the employer contribution rate applicable to active members.

(B) The portion of the employer contribution not required to be paid to the system for members in the Teacher Deferred Retirement Option Plan under subdivision (a)(3) of this section, if any, may be retained by the school districts for the purposes under subdivision (b)(1) of this section.

(4) Beginning September 1, 2003, for members whose effective date in the Teacher Deferred Retirement Option Plan is on or after September 1, 2003, the employer contribution rate on behalf of members in the Teacher Deferred Retirement Option Plan shall continue at the rate established by the entity having the authority to set the employer contribution rates for the system.

(b)(1) It is the intent of the General Assembly that the portion of the employer contribution to the system that has ceased for a participant in the Teacher Deferred Retirement Option Plan, if any, will become a part of the general operating fund of the school district to be used for any purpose, including employee salaries.

(2) Except for employer contributions to the system, the school district shall not make contributions to any tax-qualified retirement plan on behalf of any employee participating in the Teacher Deferred Retirement Option Plan. However, this prohibition shall not be applicable to the extent necessary to comply with contractual obligations incurred by a school district prior to February 1, 1999.

History. Acts 1995, No. 1096, § 1; 1999, No. 773, § 1; 2003, No. 992, § 1; 2007, No. 298, § 2; 2009, No. 743, § 7.

Amendments. The 2007 amendment, in (a), substituted “for the period from July 1, 2011, through June 30, 2013” for “after July 1, 2011” in (3)(A)(v), and added (3)(A)(vi); inserted “if any” in (3)(B) and

(b)(1); substituted “the portion of the employer contribution” for “the employer contribution” in (b)(1); and made related changes.

The 2009 amendment redesignated (a)(3)(A), deleted former (a)(3)(A)(iv) through (a)(3)(A)(vi), and inserted present (a)(3)(a)(ii).

24-7-1305. Benefits.

The member’s Teacher Deferred Retirement Option Plan benefit shall be the monthly benefit to which the member would have been entitled if the member had actually retired on the plan date without regard to the provisions of § 24-7-708 related to conditions subjecting annuities to limitations.

History. Acts 1995, No. 1096, § 1; 2003, No. 659, § 1.

24-7-1306. Amount of deposits.

(a) Teacher Deferred Retirement Option Plan deposits shall be a percentage of the plan benefit.

(b)(1) The percentage is one hundred percent (100%) reduced by the product of one percent (1%) multiplied by the number of years of contributory and reciprocal service credit and fractions thereof in the Arkansas Teacher Retirement System and further reduced by the product of six-tenths percent (0.6%) multiplied by the number of years of noncontributory service credit and fractions thereof in the system.

(2)(A) When a participant whose effective date in the plan is before September 1, 2003, reaches normal retirement age, the plan deposits shall be one hundred percent (100%) with no reduction.

(B) For any member whose effective date in the plan is September 1, 2003, or after, the plan deposits for a participant who reaches normal retirement age shall continue as reduced under subdivision (b)(1) of this section.

(c)(1) In the event a member whose effective date in the plan is before September 1, 2003, has more than thirty (30) years of service, the years of service above thirty (30) years shall be reduced by one-half percent (0.5%) for contributory years and three-tenths percent (0.3%) for noncontributory years.

(2) For any member whose effective date in the plan is September 1, 2003, or after and who has more than thirty (30) years of service, the plan deposits for the years of service above thirty (30) years shall be reduced under subdivision (b)(1) of this section.

(d) The Board of Trustees of the Arkansas Teacher Retirement System is authorized to make further adjustments on the plan to make it cost-neutral to the Arkansas Teacher Retirement System.

(e) As used in this section, "effective date" means the date determined to be the member's plan date under the policies and rules of the board.

History. Acts 1995, No. 1096, § 1; 1997, No. 953, § 1; 2001, No. 461, § 5; 2003, No. 991, § 1; 2005, No. 188, § 1; 2007, No. 298, § 3; 2011, No. 162, § 2.

Amendments. The 2007 amendment redesignated most of the provisions of (a) as present (b) through (e); deleted former (b); substituted "deposits" for "contributions" in present (b)(2)(B) and (c)(2); sub-

stituted "this section" for "subdivision (a)(2)(A) of this section" in present (b)(2)(B) and (c)(2); substituted "and rules" for "rules, and regulations" in present (e); and made related and stylistic changes.

The 2011 amendment, in (b)(1), inserted "and reciprocal," "in the Arkansas Teacher Retirement System," and "in the system."

24-7-1307. Account — Credit.

(a) The member's Teacher Deferred Retirement Option Plan account shall be the account in which shall be accumulated the:

- (1) Plan deposits made on behalf of the member; and
- (2) Plan interest.

(b) At the end of each fiscal year, the Board of Trustees of the Arkansas Teacher Retirement System shall credit each plan partici-

pant's plan account with plan interest on the mean balance in the account for the fiscal year.

(c) For the purposes of this section, plan interest shall be at the rate determined by the board from time to time.

(d) If a participant continues covered employment after completing ten (10) consecutive years in the Teacher Deferred Retirement Option Plan, the participant's Teacher Deferred Retirement Option Plan account shall be credited on June 30 of each year with ten (10) year plus Teacher Deferred Retirement Option Plan interest as set by the board.

(e) For the purposes of this section, the ten (10) year plus Teacher Deferred Retirement Option Plan interest rate shall be the rate determined by the board as appropriate.

History. Acts 1995, No. 1096, § 1; **Amendments.** The 2011 amendment 2005, No. 188, § 2; 2011, No. 45, § 20. added (d) and (e).

24-7-1308. Termination of participation in Teacher Deferred Retirement Option Plan — Distribution options.

(a)(1) The member's participation in the Teacher Deferred Retirement Option Plan shall cease when the member files an application for voluntary retirement with the system under § 24-7-701 and is granted a monthly retirement benefit by the system.

(2) The system shall cancel a plan participant's retirement benefits, and the plan participant forfeits any retirement benefits, including plan account benefits, if the participant:

(A) Fails to meet the termination of employment requirement of § 24-7-701; and

(B) Has not reached normal retirement age.

(3) A plan participant becomes eligible again for retirement benefits, including plan account benefits, when the termination requirements are met.

(b)(1) When the member's participation in the plan ceases, the member may elect to:

(A) Receive the balance in the plan account as a lump sum;

(B) Annuitize the plan account as a monthly benefit paid under the annuity option selected by the member; or

(C) Receive a part of the balance in the plan account as a lump sum and annuitize the remaining balance.

(2) A member who selects the option under subdivision (b)(1)(C) of this section may receive his or her account distribution as follows:

(A) Seventy-five percent (75%) in a lump-sum payment and twenty-five percent (25%) annuitized;

(B) Fifty percent (50%) in a lump-sum payment and the remaining fifty percent (50%) annuitized; or

(C) Twenty-five percent (25%) in a lump-sum payment and seventy-five percent (75%) annuitized.

(3) The Board of Trustees of the Arkansas Teacher Retirement System shall:

(A) Determine factors to be used for the conversion of plan balances to monthly amounts;

(B) Set requirements for the member's election under this subsection; and

(C) Modify the options under subdivision (b)(1) of this section by rule as necessary.

(c) When the member's participation in the plan ceases, the board shall cause the member's plan benefit to be paid directly to the member in the form of regular monthly amounts in the same amount and manner as would have been the case if the member had retired on the plan date and had made the same election under § 24-7-706 that was made on or before the plan date.

(d)(1) A member who fails to meet the termination requirements and receives retirement benefits shall repay any benefits received before becoming eligible again for voluntary retirement.

(2) If the member becomes eligible to receive the plan account distribution before the system collects it back from the member, the system may charge interest on the distribution for the time the member was ineligible to receive the distribution.

(e) The system may offset, adjust, or otherwise collect any benefits overpaid to a member under this subchapter.

History. Acts 1995, No. 1096, § 1; 2007, No. 298, § 4; 2009, No. 470, § 1; 2011, No. 162, § 3.

A.C.R.C. Notes. The amendment of § 24-7-1308 by Acts 2007, No. 298, § 4 substituted "under the annuity option selected by the member under § 24-7-130" for "in the form elected by the member for payment of the plan" in (b)(1). However, the phrase "elected by the member" following "in the form" was omitted without being stricken through in the act. The omission of the phrase by the General Assembly appears to be intentional.

Amendments. The 2007 amendment, in (a), substituted "or is granted" for "and/or is granted," and added "or both"; and in (b)(1), substituted "under the annuity option selected by the member un-

der § 24-7-1304" for "in the form elected by the member for payment of the plan."

The 2009 amendment, in (a), inserted (a)(2), redesignated the remaining text accordingly, and substituted "files an application for voluntary retirement with the system under § 24-7-701 and" for "separates from service or" in (a)(1); substituted "this subchapter" for "§ 24-7-1304" in (b)(1); added (d) and (e); and made minor stylistic changes.

The 2011 amendment subdivided (b)(1) as (b)(1)(A) and (B) and inserted (C); in present (b)(1)(B), added "Annuitize the plan account as" and deleted "under this subchapter" at the end; inserted (b)(2) and redesignated the remaining subdivisions accordingly; subdivided present (b)(3) as (b)(3)(A); and added (b)(3)(B) and (C).

24-7-1310. Death of participant.

(a) In the event that a Teacher Deferred Retirement Option Plan participant dies, the benefits payable from the plan shall be determined according to § 24-7-710.

(b) However, the plan participant's surviving spouse may choose to receive the plan benefit in a lump sum without affecting the monthly retirement benefit payable from the Arkansas Teacher Retirement System.

(c) For the purposes of § 24-7-709, any amounts received from the Teacher Deferred Retirement Option Plan account in the form of lump-sum or annuity payments shall be considered to be annuity payments received by the member or his or her designated beneficiary and shall reduce or eliminate the disposition of residue that, except for the provisions of this subsection, would have been paid under § 24-7-709.

History. Acts 1995, No. 1096, § 1; **Amendments.** The 2007 amendment 1997, No. 118, § 3; 2005, No. 188, § 3; added (c). 2007, No. 298, § 5.

24-7-1311. Term of participation in Teacher Deferred Retirement Option Plan.

(a) The Arkansas Teacher Retirement System's monthly deposit into the member's Teacher Deferred Retirement Option Plan shall not exceed one (1) plan term of ten (10) consecutive years, beginning with the member's plan date.

(b) Once a member participates in the plan, the member shall no longer accrue service credit under any state-supported retirement system, even if the member returns to work.

History. Acts 1995, No. 1096, § 1; heading; and added (a)(2) and made a 2007, No. 298, § 6; 2011, No. 45, § 21. related change.

Amendments. The 2007 amendment The 2011 amendment rewrote the section inserted "and duration" in the section tion.

24-7-1314. Early participation.

(a) The Board of Trustees of the Arkansas Teacher Retirement System, in consultation with its actuary, may promulgate rules and regulations to allow members having at least twenty-eight (28) but less than thirty (30) years of credited service to enter the Teacher Deferred Retirement Option Plan as early participants. The board may authorize the early participation as soon as it is technologically feasible and actuarially appropriate.

(b) If the board authorizes early participation, the plan deposit under § 24-7-1306 shall be based upon the deposit percent payable for a participant with thirty (30) years of service, reduced by at least an additional one-half of one percent (0.5%) of the plan benefit for each month the member begins participating in the plan prior to having thirty (30) years of credited service. The board may increase the percentage required as an early participation reduction in order to provide a fair and just and reasonable benefit for all members of the Arkansas Teacher Retirement System and to provide for appropriate actuary considerations.

History. Acts 1999, No. 1590, § 1; 2005, No. 188, § 4.

24-7-1316. Funding objectives of Teacher Deferred Retirement Option Plan — Cost neutrality.

As part of its obligation to ensure that the Teacher Deferred Retirement Option Plan is cost neutral to the Arkansas Teacher Retirement System, the Board of Trustees of the Arkansas Teacher Retirement System is authorized to make further adjustments to the plan to make it cost neutral to the Arkansas Teacher Retirement System.

History. Acts 2007, No. 298, § 7.

SUBCHAPTER 14 — ARKANSAS TEACHER RETIREMENT SYSTEM AFFORDABLE HOUSING INVESTMENT ACT

SECTION.
24-7-1401 — 24-7-1409. [Repealed.]

Effective Dates. Acts 2009, No. 468, § 28: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pension policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement

System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

24-7-1401 — 24-7-1409. [Repealed.]

Publisher’s Notes. This subchapter was repealed by Acts 2009, No. 468, § 27. The subchapter was derived from the following sources:

- 24-7-1401. Acts 1999, No. 555, § 1.
- 24-7-1402. Acts 1999, No. 555, § 2.
- 24-7-1403. Acts 1999, No. 555, § 3.

- 24-7-1404. Acts 1999, No. 555, § 4.
- 24-7-1405. Acts 1999, No. 555, § 5.
- 24-7-1406. Acts 1999, No. 555, § 6.
- 24-7-1407. Acts 1999, No. 555, § 7.
- 24-7-1408. Acts 1999, No. 555, § 8.
- 24-7-1409. Acts 1999, No. 555, § 9.

SUBCHAPTER 15 — RETIRANTS’ AD HOC INCREASE ACT

SECTION.
24-7-1501. Title.
24-7-1502. Benefit generally.
24-7-1503. Ad hoc benefit formula.

SECTION.
24-7-1504. Promulgation of rules — Duty of board.

24-7-1501. Title.

This subchapter shall be known and may be cited as the “Retirants’ Ad Hoc Increase Act”.

History. Acts 2009, No. 1315, § 1.

24-7-1502. Benefit generally.

(a)(1) The annual benefit payable to eligible retirees, survivors, and beneficiaries of retirants of the Arkansas Teacher Retirement System shall be subject to a one-time ad hoc increase based on the retirant’s years of credited service that is grouped within descending decades as calculated by subtracting the total years of credited service from the date of retirement.

(2) A break in credited service is not considered under this subchapter.

(3) Teacher Deferred Retirement Option Plan (T-DROP) participants shall have the total years of credited service subtracted from the date of entry into T-DROP.

(b)(1) One-half (½) of the annual dollar increase per year of credited service shall be calculated and provided to all retirees, survivors, and beneficiaries of retirants that are eligible to receive this increase.

(2) One-half (½) of the annual dollar increase per year of credited service shall be calculated then prorated based on the amount of contributory service credit to total service on the retirant’s:

(A) Retirement date; or

(B) T-DROP entry date.

(3) The amounts under this subsection shall be calculated and provided to all retirees, survivors, and beneficiaries of retirants.

(c) The ad hoc benefit is payable to the retirees, survivors, and beneficiaries of retirants of the system beginning on a July 1 that is at least twelve (12) full months after the effective date of a monthly benefit.

(d) The ad hoc benefit for a retirant, survivor, and beneficiary of a retirant shall not increase the retirant’s current benefit by more than twenty-five percent (25%) of the annuity benefit payable as of the prior June 30.

History. Acts 2009, No. 1315, § 1.

24-7-1503. Ad hoc benefit formula.

The schedule of decade dollar amounts per year of credited service is:

Formula Decades in Which Credited Service Was Accrued Service	Annual \$ Increase Per Year of Credited Service
2000 – and later	\$5
1990–1999	\$10
1980–1989	\$20

1970–1979	\$30
1960–1969	\$40
1950–1959	\$50
1940–1949	\$60
1930–1939	\$70
1920–1929	\$80
1910–1919	\$90

History. Acts 2009, No. 1315, § 1.

24-7-1504. Promulgation of rules — Duty of board.

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules for the ad hoc benefit under this subchapter.

(b) An ad hoc benefit under this subchapter shall not be implemented if the ad hoc benefit would cause the Arkansas Teacher Retirement System’s unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(c) The board shall only authorize an ad hoc benefit that is actuarially appropriate for the system.

(d) Before an increase of retirement benefit through an ad hoc benefit is authorized, the board shall file relevant information with the Joint Interim Committee on Public Retirement and Social Security Programs regarding the actuarial appropriateness of the increase.

(e) The board may reduce the decade increase formula under § 24-7-1503 proportionately on a one-to-one formula basis for each decade when the reduction is actuarially feasible to implement.

(f) The ad hoc benefit increase is a one-time adjustment and shall also be used to increase the base amount of a retirant’s benefits when calculating any future additional benefit increases.

History. Acts 2009, No. 1315, § 1.

SUBCHAPTER 16 — ARKANSAS TEACHER RETIREMENT SYSTEM — OPTIONAL PARTICIPATION BY EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

SECTION.

- 24-7-1601. Legislative history — Findings — Intent.
- 24-7-1602. Definitions.
- 24-7-1603. Provisions of subchapter controlling.
- 24-7-1604. Coverage for employees enrolled in Arkansas Teacher Retirement System before July 1, 2011.

SECTION.

- 24-7-1605. Optional participation by institution of higher education employers on or after July 1, 2011.
- 24-7-1606. Concurrent participation and certain salary credit prohibited.
- 24-7-1607. Duties and responsibilities of board.

Effective Dates. Acts 2011, No. 513 § 2: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the establishment of the Post-Secondary Education Plan is part of a history of retirement legislation that seeks to develop a more equitable retirement system for members of the Arkansas Teacher Retirement System; that confusion exists concerning the coverage of employees of state colleges, vocational-technical schools and particularly-named institutions; that there is uncertainty in the administration of this provision of the law; that legislative clarification is desperately needed; that certain provisions of Title 24 regarding retirement and pensions are in urgent need of revision; that such revision is of great importance to members of the Arkansas Teacher Retirement

System and to other citizens of the State of Arkansas; that this act is needed to protect the retirement benefits of employees of the public school system, to provide fair treatment and clear intent with respect to part-time employees of post-secondary or higher education employers, and to clarify the obligations of the Arkansas Teacher Retirement System with respect to its members who become employed by a post-secondary or higher education employer; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

24-7-1601. Legislative history — Findings — Intent.

(a) It is found and determined by the General Assembly that:

(1) The establishment of the Post-Secondary Education Plan is a historical component of retirement legislation that seeks to develop a more equitable retirement system for members of the Arkansas Teacher Retirement System; and

(2) Confusion about the intent of the General Assembly concerning the coverage of employees of state-supported universities, colleges, junior colleges, and vocational-technical schools, the Arkansas Higher Education Coordinating Board, the State Board of Workforce Education and Career Opportunities, and any other entity offering both the Arkansas Teacher Retirement System retirement plan and an alternate retirement plan create uncertainty in the administration of law, and legislative clarification of the law is needed.

(b)(1) Historically, the Arkansas Teacher Retirement System has been mandated by the General Assembly to provide retirement benefits for an employee of a public school, public educational agency, or any other eligible employer included for coverage in the Arkansas Teacher Retirement System.

(2) Originally, the Arkansas Teacher Retirement System was designed to provide retirement benefits to certified teachers and administrators in the public schools. However, the coverage has gradually been extended to all employees of the public schools and to other public entities that support educational activities in Arkansas.

(3) Beginning with legislation in 1967 and continuing through the early 1980s, the General Assembly created a right for certain colleges, vocational-technical schools, and the Arkansas Higher Education Coordinating Board to establish and maintain an alternate retirement plan

for its employees and perform all the functions reasonably appropriate in the retirement plan's administration.

(4) The general intent of the early legislation was to allow those institutions of higher education employers to offer their employees the option to participate in an alternative retirement plan, the Arkansas Teacher Retirement System retirement plan, or the Arkansas Public Employees' Retirement System retirement plan.

(5) The law was designed to encourage recruitment of public school teachers and administrators into post-secondary positions by allowing them to continue in the Arkansas Teacher Retirement System and to encourage recruitment of private and out-of-state educators by the use of the alternate retirement plan that is offered nationwide.

(c)(1) The Arkansas Teacher Retirement System requested an Attorney General's opinion for legal clarification, as the laws have been amended over time making the wording difficult to interpret.

(2) All public school employees are mandatory members of the Arkansas Teacher Retirement System as a condition of employment. The uncertainty is with employees of institutions of higher education employers, specifically:

(A) Whether an institution of higher education employer can exclude a part-time employee from participation in the Arkansas Teacher Retirement System and thereby be exempt from reporting salary and remitting member or employer contributions for its part-time employees; and

(B) Whether a retired Arkansas Teacher Retirement System member can be enrolled in the institution of higher education employer's alternate retirement plan with or without separation while simultaneously drawing retirement benefits from the Arkansas Teacher Retirement System.

(3) The Attorney General's Opinion No. 2009-164, dated March 16, 2010, concludes that the current laws related to the Arkansas Teacher Retirement System are difficult to understand, as the intent of the General Assembly is not clear, and legislative clarification is required.

(d) Therefore, the General Assembly finds that this subchapter is necessary to:

(1) Protect the retirement benefits for employees of the public school system;

(2) Provide fair treatment and clear intent with respect to part-time employees and full-time employees of institutions of higher education employers;

(3) Clarify the obligations of the Arkansas Teacher Retirement System with respect to its members who become employed by an institution of higher education employer; and

(4) Set forth requirements that supersede any prior legislation relating to employees of institutions of higher education.

24-7-1602. Definitions.

As used in this subchapter:

(1) "Alternative retirement plan" means an optional retirement plan based on the purchase of contracts providing retirement and death benefits for a benefits-eligible employee of a post-secondary or higher education employer;

(2) "Benefits-eligible" means a class of employees, determined at the discretion of a post-secondary or higher education employer, eligible to participate in the Arkansas Teacher Retirement System, an alternate plan, or the Arkansas Public Employees' Retirement System;

(3) "Nonmandatory employer" means any public employer that was authorized to enroll new employees into the Arkansas Teacher Retirement System or alternate retirement plan before July 1, 2011;

(4) "PSHE employer" means a post-secondary or higher education employer:

(A) With employees that may be hired without becoming mandatory members of the Arkansas Teacher Retirement System; and

(B) That offers the Arkansas Teacher Retirement System as a retirement plan on or after July 1, 2011; and

(5) "PSHE plan" means the plan establishing the right of a new employee of a PSHE employer to participate in the Arkansas Teacher Retirement System on or after July 1, 2011.

History. Acts 2011, No. 513, § 1.

24-7-1603. Provisions of subchapter controlling.

(a)(1) This subchapter controls any inconsistent provision of any other law regarding the enrollment and coverage of an employee of a PSHE employer in either the Arkansas Teacher Retirement System retirement plan or an alternative retirement plan that is offered by a PSHE employer.

(2) This subchapter is enacted to supersede and specifically control any inconsistent provisions under § 24-7-801 et seq., § 24-7-901 et seq., and § 24-7-1001 et seq.

(b) The Arkansas Teacher Retirement System retirement plan is administered under the provisions of the Arkansas Teacher Retirement System Act.

History. Acts 2011, No. 513, § 1.

Publisher's Notes. The Arkansas Teacher Retirement System Act, referred to in this section, was enacted by Acts 1973, No. 427, codified as §§ 24-7-201 —

24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716.

24-7-1604. Coverage for employees enrolled in Arkansas Teacher Retirement System before July 1, 2011.

(a) Beginning July 1, 2011, all current employees of a nonmandatory employer that are current members of the Arkansas Teacher Retirement System

ment System may continue membership and continue to accrue service credit in the system without any change in participation in the system if:

- (1) The employee is:
 - (A) Part-time and the employee continues to provide services in each fiscal year at approximately the same level of service; or
 - (B) Full-time and the employee continues to provide services in each fiscal year;
 - (2) The nonmandatory employer chooses to continue reporting service to the system for the employee;
 - (3) The nonmandatory employer determines that the employee will contribute at least part-time services in subsequent months of the fiscal year if services are not rendered throughout the fiscal year;
 - (4) The nonmandatory employer remits contributions to the system on behalf of the employee during the fiscal year beginning July 1, 2011, and each fiscal year thereafter; and
 - (5) The employee's service with the nonmandatory employer is not terminated.
- (b) The nonmandatory employer shall remit employer contributions under § 24-7-401 et seq. for an employee under this section and shall be subject to the rights and obligations of an employer under the Arkansas Teacher Retirement System Act.
- (c) The employee under this section shall remit employee contributions under § 24-7-406 et seq. and shall be subject to the rights and obligations of an employee under the Arkansas Teacher Retirement System Act.
- (d) The nonmandatory employer shall provide information in a format requested by the system to allow the system to monitor and track all employees who participate in the system.

<p>History. Acts 2011, No. 513, § 1.</p> <p>Publisher's Notes. The Arkansas Teacher Retirement System Act, referred</p>	<p>to in this section, is codified throughout Title 24, Chapter 7. See Publisher's Note to § 24-7-1603.</p>
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24-7-1605. Optional participation by institution of higher education employers on or after July 1, 2011.

- (a)(1) A PSHE employer shall adopt and record a policy or designation that identifies which positions at the PSHE employer's institution of higher education are benefits-eligible for retirement benefits.
- (2) A new employee of a PSHE employer may participate in the PSHE plan if the employee:
 - (A) Is benefits-eligible as determined by the PSHE employer;
 - (B) Is a vested member of the Arkansas Teacher Retirement System at the time of initial employment; and
 - (C) Signs an irrevocable PSHE plan participation form provided by the system.

(b)(1) A nonmandatory employer becomes a PSHE employer upon enrolling a new eligible member with the system on or after July 1, 2011.

(2) A PSHE plan employee shall continue as a member in the system retirement plan so long as the member is employed by a PSHE employer.

(3) An election to participate in the retirement system plan under this subsection is irrevocable so long as the employee does not obtain a termination refund from the system after the election.

(c)(1) The PSHE employer shall remit employer contributions under § 24-7-401 et seq. and be subject to the rights and obligations of an employer under the Arkansas Teacher Retirement System Act once a benefits-eligible employee elects to participate in the system.

(2) The benefits-eligible employee who elects to participate in the system retirement plan shall remit employee contributions under § 24-7-406 et seq. and be subject to the rights and obligations of an employee under the Arkansas Teacher Retirement System Act.

(d) The PSHE employer shall comply with the system's verification and reporting requirements that may be implemented by the system.

(e) A member shall not purchase prior unreported service on or after July 1, 2011, regardless of when service was provided to a nonmandatory employer.

History. Acts 2011, No. 513, § 1.

to in this section, is codified throughout

Publisher's Notes. The Arkansas Teacher Retirement System Act, referred

Title 24, Chapter 7. See Publisher's Note to § 24-7-1603.

24-7-1606. Concurrent participation and certain salary credit prohibited.

(a) A benefits-eligible employee shall not participate in an alternate retirement plan and continue to accrue service credit with the Arkansas Teacher Retirement System.

(b) If a benefits-eligible employee is first employed by a nonmandatory employer or PSHE employer after July 1, 2011, and is concurrently employed by another retirement system employer, all separate days of service shall count for service credit, but only the highest salary of the concurrent retirement system employer shall count to determine final average salary.

History. Acts 2011, No. 513, § 1.

24-7-1607. Duties and responsibilities of board.

The Board of Trustees of the Arkansas Teacher Retirement System may promulgate rules necessary to carry out this subchapter.

History. Acts 2011, No. 513, § 1.

CHAPTER 8

RETIREMENT OF JUDGES AND COURT EMPLOYEES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS JUDICIAL RETIREMENT SYSTEM.
3. MUNICIPAL JUDGES AND CLERKS GENERALLY.
4. MUNICIPAL JUDGES AND CLERKS — COUNTIES WITH POPULATION OF 150,000.
5. MUNICIPAL JUDGES AND CLERKS AND POLICE JUDGES — MISCELLANEOUS PROVISIONS.
7. TIER TWO ACTUAL JUDICIAL SERVICE BENEFIT PLAN.
8. ARKANSAS DISTRICT JUDGE RETIREMENT SYSTEM. [REPEALED.]
9. DISTRICT COURT CLERKS' RETIREMENT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

24-8-101. Previously retired justice.

Effective Dates. Acts 2001, No. 626, § 3: Mar. 9, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Judicial Retirement System and the Tier Two Actual Judicial Service Benefit Plan, this act should become effective immediately. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-8-101. Previously retired justice.

(a) Any judge or justice under the age of seventy (70) who is receiving retirement benefits under § 24-8-201 et seq. or § 24-8-701 et seq., who is elected or appointed to any judicial office in this state, and who foregoes receipt of retirement benefits while serving in the judicial office shall be entitled to resume receiving his or her previous retirement benefits upon termination of the subsequent service.

(b) If at the time of the initial retirement the judge or justice was entitled to the benefits of the escalator clause provided in § 24-8-218(c)(1) or postretirement benefits provided in § 24-8-223 or § 24-8-717, the judge or justice and the judge's or justice's survivors shall again be entitled to the benefits upon the termination of any such subsequent judicial service.

History. Acts 2001, No. 626, § 1.

SUBCHAPTER 2 — ARKANSAS JUDICIAL RETIREMENT SYSTEM

SECTION.

24-8-204. Administration.

24-8-210. Contributions — State.

24-8-211. Contributions — Cessation
upon retirement.24-8-217. Eligibility for benefits — Dis-
ability retirement.

SECTION.

24-8-218. Retirement and survivors' ben-
efits generally.

24-8-226. Minimum benefits.

Effective Dates. Acts 2001, No. 763, § 8: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act should be effective at a time certain which is consistent with the actuarial evaluations of the Judicial Retirement System; that the failure of the act to be effective at a time certain will disrupt the proper administration of the Judicial Retirement System; that the Judicial Retirement System utilizes the state fiscal year as its accounting year for actuarial purposes; that without this emergency clause this act may not become effective until after July 1, 2001. Therefore an emergency is declared to exist and this act being immediately necessary for

the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2009, No. 744, § 3: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes revisions to benefits received by certain members of the Arkansas Judicial Retirement System and that the ideal time to make revisions to the system is at the beginning of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective July 1, 2009."

24-8-204. Administration.

(a)(1) The executive director and administrative staff of the Arkansas Public Employees' Retirement System shall be the executive director and administrative staff of the Arkansas Judicial Retirement System.

(2) All administrative records of the Arkansas Judicial Retirement System shall be maintained within the administrative offices of the Arkansas Public Employees' Retirement System.

(b)(1) The Board of Trustees of the Arkansas Judicial Retirement System shall continue to exercise the powers, functions, and duties previously exercised.

(2) Nothing in this section shall be construed to diminish or otherwise alter the powers, functions, and duties of the board.

(c) All costs of administering the Arkansas Judicial Retirement System shall be paid from the Judges Retirement Fund, but no payment for such expenses shall be made unless authorized by the board.

History. Acts 1983, No. 922, §§ 4, 6, 11; ing reprinted to correct the name of a A.S.A. 1947, §§ 22-958, 22-959, 22-963. state board in (b)(1).

Publisher's Notes. This section is be-

24-8-210. Contributions — State.

(a) The state, as employer, shall make contributions to the Arkansas Judicial Retirement System of twelve percent (12%) of the active member payroll.

(b) The Chief Fiscal Officer of the State is authorized and directed to make annual transfers on each July 1 to the Judges Retirement Fund from the Constitutional Officers Fund and the State Central Services Fund in an amount determined by computing the dollar amount required based on the actuarially determined employer rate in the most recent annual actuarial valuation and subtracting from that amount the statutory contribution amount specified in subsection (a) of this section, and further, reduced by the amount of the court cost revenue transferred to the Judges Retirement Fund from the State Administration of Justice Fund in accordance with § 16-10-310.

History. Acts 1983, No. 922, § 8; A.S.A. extended to current and future members of the Arkansas Judicial Retirement System and to current retired members and current survivor annuitants of the system.”

Effective Dates. Acts 2001, No. 763, § 6, provided: “The revised benefits which are adopted pursuant to this act shall be

extended to current and future members of the Arkansas Judicial Retirement System and to current retired members and current survivor annuitants of the system.”

24-8-211. Contributions — Cessation upon retirement.

(a) When a judge is certified as eligible for retirement, no further contribution shall be required of the judge.

(b) Upon the written notice of election by the member of the Arkansas Judicial Retirement System, a judge with at least twenty (20) years of judicial service may continue or recommence payment of the six-percent (6%) contribution into the system to accrue the maximum retirement benefit provided under § 24-8-218.

History. Acts 1953, No. 365, § 9; A.S.A. added (b), and made a minor stylistic change. 1947, § 22-909; Acts 2009, No. 744, § 1.

Amendments. The 2009 amendment

24-8-217. Eligibility for benefits — Disability retirement.

(a) Any member of the Arkansas Judicial Retirement System who has served a minimum of three (3) consecutive years shall receive retirement benefits if any incapacitating disability as determined by the Board of Trustees of the Arkansas Judicial Retirement System shall occur during any term for which the judge has been elected.

(b) The three-year service requirement shall only apply to judges elected after July 1, 1983.

(c)(1) A judgment of disability should not be granted by the board until it is reasonably assured of a judge's permanent physical or mental incapacity to perform the duties of his or her judicial office.

(2) The board should act only upon proper certification of incapacity by two (2) or more physicians.

History. Acts 1953, No. 365, § 2; 1963, No. 223, § 1; 1965, No. 139, § 2; 1967, No. 249, § 1; 1969, No. 370, § 1; 1973, No. 407, § 1; 1983, No. 231, § 1; A.S.A. 1947, § 22-902.

Publisher's Notes. This section is being reprinted to correct punctuation and the name of a state board in (a) and to make a reference gender neutral in (c)(1).

24-8-218. Retirement and survivors' benefits generally.

(a) The retirement benefits to be paid an eligible and qualified member or retiree under the provisions of this section shall be sixty percent (60%) of the annual salary payable to the last judicial office held and shall be payable for the recipient's life.

(b)(1) Survivors' benefits shall be sixty-seven percent (67%) of the amount of the retirement benefits.

(2) Upon the death of an active judge who has served at least three (3) years, or any other judge who has met or could have met the qualifications for retirement benefits under any section of this subchapter, his or her survivors shall receive a sum equal to sixty-seven percent (67%) of the retirement benefits provided in subsection (a) of this section.

(3) The requirement of three (3) years of service shall only apply to judges elected after July 1, 1983.

(4) Survivors' benefits shall be payable as follows:

(A) If the decedent is survived by a spouse to whom he or she has been married for not less than one (1) year and with whom he or she is living at the time of the decedent's death and if he or she is not survived by any minor child or children, then the spouse shall draw for life or until remarriage a sum equal to sixty-seven percent (67%) of the benefits provided in subsection (a) of this section;

(B)(i) If the decedent is survived by both an eligible spouse and minor children, then one-half ($\frac{1}{2}$) of the survivors' benefits shall be paid to the spouse for life or until remarriage. The other one-half ($\frac{1}{2}$) of the survivors' benefits shall be paid to the guardian of the minor children during the period of minority.

(ii) When all of the children cease to be minors, then the survivors' benefits paid to the minor children shall be paid to the spouse; and

(C) If the decedent is not survived by an eligible spouse but is survived by minor children, then the survivors' benefits, i.e., sixty-seven percent (67%) of the benefits provided in subsection (a) of this section, shall be payable to the guardian of the minor children during the period of minority.

(5) If a surviving spouse who is receiving survivors' benefits under this section remarries and the benefits are discontinued and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(6) No surviving spouse shall be eligible to receive survivors' benefits on more than one (1) member account.

(c)(1) The retirement benefits and survivors' benefits provided for in this section shall be based on the salary for the judicial office last held by the member qualifying for retirement as fixed by law at the time any payment of benefits is made rather than on the salary for the office at the time of the member's retirement.

(2) The retirement benefits shall be increased or decreased from time to time as the salary for the particular judicial office is increased or decreased.

(3)(A) This method of determination of the amount of retirement or survivors' benefits shall be applicable to any person who is a member of the Arkansas Judicial Retirement System on or before June 30, 1983.

(B) For all judges or justices first elected after July 1, 1983, the benefit payable shall be sixty percent (60%) of the salary after twenty (20) years or more of judicial service, for the office at the time of the member's retirement.

(C)(i) Prospective with the passage of this act, the benefit payable for each year of additional service after twenty (20) years of judicial service, the benefit shall be increased by two and one-half percent (2.5%) in accordance with the provisions of § 24-8-211(b).

(ii) Election to participate shall be made in writing in a manner and method determined by the Board of Trustees of the Arkansas Judicial Retirement System and shall be irrevocable.

(iii) The maximum retirement benefit payable to a judge or justice under this section is seventy-five percent (75%) of the salary for the office at the time of the member's retirement.

(4)(A) Any judge or justice under the age of seventy (70) who is receiving retirement benefits under this subchapter or § 24-8-701 et seq. and who is elected or appointed to any judicial office in this state and who foregoes receipt of retirement benefits while serving in the judicial office shall be entitled to resume receiving his or her previous retirement benefits upon termination of the subsequent service.

(B) If at the time of the initial retirement the judge or justice was entitled to the benefits of the escalator clause provided in subdivision (c)(1) of this section or the postretirement benefits provided in § 24-8-223 or § 24-8-717, the judge or justice and the judge's or justice's survivors shall again be entitled to the benefits upon the termination of any such subsequent judicial service.

(d)(1) Entitlement to retirement compensation and survivors' benefits for those judges who have retired as of June 30, 1983, shall be based upon certificates of the Board of Trustees of the Arkansas Judicial Retirement System previously filed with the Auditor of State.

(2) Entitlement to retirement compensation and survivors' benefits for those judges who retire on or after July 1, 1983, shall be evidenced by the certificate of the board transmitted to the executive director.

(3) All retirement compensation and survivors' benefits shall be paid monthly from the Judges Retirement Fund.

(4) All retirement and survivors' benefits provided by this subchapter shall be paid from the fund to be administered by the executive

director and staff of the Arkansas Public Employees' Retirement System.

History. Acts 1953, No. 365, § 4; 1963, No. 223, § 2; 1965, No. 139, § 3; 1971, No. 88, §§ 1, 2; 1973, No. 407, §§ 2, 3; 1975, No. 333, § 1; 1981, No. 825, § 1; 1983, No. 231, § 3; 1983, No. 373, § 1; 1983, No. 922, § 10; 1985, No. 1077, § 1; A.S.A. 1947, § 22-904; Acts 1993, No. 407, § 1; 1999, No. 399, § 3; 2001, No. 763, § 2; 2009, No. 744, § 2.

Publisher's Notes. In reference to the term "passage of this Act," Acts 2009, No. 744, was signed by the Governor on April 1, 2009, and became effective on July 1, 2009.

Amendments. The 2009 amendment, in (c)(3), inserted "after twenty (20) years or more of judicial service" in (c)(3)(B), inserted (c)(3)(C), and made a minor stylistic change.

Effective Dates. Acts 2001, No. 763, § 6, provided: "The revised benefits which are adopted pursuant to this act shall be extended to current and future members of the Arkansas Judicial Retirement System and to current retired members and current survivor annuitants of the system."

24-8-226. Minimum benefits.

The following minimum benefits shall apply to any plan based only on actual service under the Arkansas Judicial Retirement System:

(1) The annual minimum disability benefit shall be equal to twenty-five and six-tenths percent (25.6%) of the annual salary of the judge or justice; and

(2) The annual minimum survivors' benefit shall be an amount equal to seventeen and one hundred fifty-two thousandths percent (17.152%) of the annual salary of the judge or justice.

History. Acts 1999, No. 1067, § 1; 2001, No. 763, § 3.

Effective Dates. Acts 2001, No. 763, § 6, provided: "The revised benefits which are adopted pursuant to this act shall be

extended to current and future members of the Arkansas Judicial Retirement System and to current retired members and current survivor annuitants of the system."

SUBCHAPTER 3 — MUNICIPAL JUDGES AND CLERKS GENERALLY

SECTION.

24-8-307. Eligibility for benefits — Cities of the first class or cities of the second class.

24-8-311. Eligibility for benefits — Clerks.

SECTION.

24-8-318. Additional funding sources for retirement benefits.

24-8-320. Municipal Court Retirement Transition Group.

24-8-321. Funds closed.

Effective Dates. Acts 2007, No. 177, § 15; July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this bill affects the structure of the Arkansas District Judge Retirement System and the Arkansas Public Employees' Retirement System and the ideal time to make revisions to the retirement sys-

tems is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall become effective on July 1, 2007.

Cross References. Arkansas District Judge Retirement System, § 24-8-801 et seq.

District Court Clerk's Retirement,
§ 24-8-901 et seq.[Repealed].

24-8-307. Eligibility for benefits — Cities of the first class or cities of the second class.

(a)(1) Upon the approval of a majority of the city council or the board of directors of a city of the first class or a city of the second class, and of the county quorum court if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court to which this subchapter applies who shall attain age fifty (50) and who shall have served at least sixteen (16) years in office as municipal judge shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he or she shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half ($\frac{1}{2}$) of the salary payable to him or her at the time of his or her resignation, retirement, or succession in office.

(b)(1) Upon the approval of the governing body of the municipality and of the county quorum court if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court who shall attain age seventy (70) or over, who shall have served at least six (6) elective years in office as municipal judge, and who has served not less than two (2) or more elective years as a prosecuting attorney and as an Attorney General of the State of Arkansas shall be entitled to receive benefits provided by this subchapter.

(2)(A) If the judge resigns, retires from office, or is succeeded in office by another judge, he or she shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half ($\frac{1}{2}$) of the salary payable to him or her at the time of his or her resignation, retirement, or succession in office.

(B) In addition thereto, the surviving spouse of the judge shall be entitled to the benefits provided in this subchapter.

(c)(1) Upon approval of the governing body of the municipality and of the county quorum court if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court who shall attain age seventy-eight (78) or over, who shall have served at least four (4) years in office as municipal judge, and who has become disabled while serving as municipal judge shall be entitled to receive benefits provided by this subchapter.

(2)(A) If the judge resigns, retires from office, or is succeeded in office by another judge, then he or she shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half ($\frac{1}{2}$) of the salary payable to him or her at the time of his or her resignation, retirement, or succession in office.

(B) In addition thereto, the surviving spouse of the judge shall be entitled to the benefits provided in this subchapter.

(d) Any municipal judge receiving retirement benefits under the provisions of this subchapter shall not be eligible to receive retirement benefits under the provisions of §§ 24-8-401 and 24-8-403 — 24-8-408 in addition thereto.

(e)(1) Upon the approval of a majority of the city council or board of directors of a city of the first class or a city of the second class, any person who shall attain age fifty (50), and who shall have served two (2) or more years as an elected justice of the peace and three (3) or more years as a certified full-time law enforcement officer, and who has held the office of municipal judge not fewer than ten (10) years shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he or she shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half ($\frac{1}{2}$) of the salary payable to him or her at the time of his or her resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term for qualification under these provisions, then the judge so elected shall be eligible to retire at one-half ($\frac{1}{2}$) pay as provided in this section.

(4) In addition thereto, the surviving spouse of the qualifying judge shall be entitled to the benefits provided in this subchapter until his or her death or remarriage.

(f)(1) Upon the approval of a majority of the city council or board of directors of a city of the first class or a city of the second class and the approval of the quorum court of the county, any person shall be eligible to receive retirement benefits provided by this subchapter who:

(A) At age fifty-five (55) has sixteen (16) years of service with not fewer than eight (8) years as municipal judge and at least five (5) years as a deputy prosecuting attorney and three (3) years with any state agency for a total of sixteen (16) years; or

(B) At age fifty (50) has at least ten (10) years of service as municipal judge and at least ten (10) years of service as a juvenile referee for a total of twenty (20) years of service.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he or she shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half ($\frac{1}{2}$) of the salary payable to the judge at the time of resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term for qualification under these provisions, then the judge so elected shall be eligible to retire at one-half ($\frac{1}{2}$) pay as provided in this section.

(4) In addition thereto, the surviving spouse of the qualifying judge shall be entitled to the benefits provided in this subchapter until the surviving spouse's death or remarriage.

(g)(1) Upon the approval of the governing body of the municipality and of the county quorum court, if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court or county municipal court who shall attain age sixty-

two (62) and who shall have served at least sixteen (16) years in office as municipal judge, or at least sixteen (16) years combined service as municipal judge, deputy prosecuting attorney, assistant attorney general, or city attorney shall be eligible to receive retirement benefits provided by this subsection.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, then he or she shall receive retirement pay for and during the remainder of his or her natural life in an amount, approved by the governing body or governing bodies, equal to not less than thirty-five percent (35%) nor more than fifty percent (50%) of the salary payable to him or her at the time of his or her resignation, retirement, or succession in office.

(3) Any municipal judge who retires under this subsection shall be entitled to continue to participate in and be covered by the city/county health insurance program.

(h)(1) Upon the approval of the governing body of the municipality and of the county quorum court, if county funds are used to partially pay the salary of the judge of the municipal court, any person who has sixteen (16) or more years of public service, with not less than twelve (12) years as municipal judge and at least four (4) years of other public service as a state trooper, as deputy prosecuting attorney, and with active duty in the military aggregated together for a total of sixteen (16) years or more at public service, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he or she shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half ($\frac{1}{2}$) of the salary payable to him or her at the time of his or her resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term for qualification under these provisions, then the judge so elected shall be eligible to retire at one-half ($\frac{1}{2}$) pay as provided in this section.

(4) In addition thereto, the surviving spouse of the qualifying judge shall be entitled to the benefits provided in this subchapter until his or her death or remarriage.

(i)(1) Upon the approval of a majority of the city council or board of directors of a city of the first class or a city of the second class and the approval of the quorum court of the county, if county funds are used to partially pay the salary of the judge of the municipal court, any person who at age fifty (50) has sixteen (16) years of service, with not less than eight (8) years as municipal judge and at least six (6) years as a prosecuting attorney or deputy prosecuting attorney and two (2) years with any state agency for a total of sixteen (16) years, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he or she shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half ($\frac{1}{2}$) of the salary payable to him or her at the time of his or her resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term of qualification under these provisions, then the judge so elected shall be eligible to retire at one-half (½) pay as provided in this section.

(4) In addition thereto, the surviving spouse of the qualifying judge shall be entitled to the benefits provided in this subchapter until his or her death or remarriage.

History. Acts 1973, No. 432, § 3; 1975, 1995, No. 792, § 1; 1997, No. 1322, § 1; No. 392, § 1; 1977, No. 939, § 1; A.S.A. 2001, No. 1613, § 1.
1947, § 22-916; Acts 1993, No. 239, § 1;

24-8-311. Eligibility for benefits — Clerks.

(a)(1) Any clerk of a municipal court to which this subchapter applies, appointed by the judges of the court, shall be eligible to receive retirement benefits provided by this subchapter who:

(A) Attains age sixty (60) and has served in office as clerk for at least ten (10) years; or

(B) Has served in office for at least twenty (20) years irrespective of age.

(2) If the clerk resigns, retires from office, or is succeeded in office by another clerk, the clerk shall receive retirement benefits for and during the remainder of his or her natural life in an amount equal to one-half (½) of the salary payable to the clerk at the time of resignation, retirement, or succession in office.

(3) After the death of the clerk, the surviving spouse of a qualifying court clerk shall be entitled to continue to receive the retirement benefits under this subchapter until the surviving spouse dies or remarries.

(b) Upon the approval of the governing body of the municipality and following a determination of the actuarial soundness of the fund from which the benefits shall be paid, any court clerk of a municipal court who upon reaching age sixty-eight (68) will have served for a minimum of seven (7) years immediately prior to severance from employment may retire with a reduced benefit in an amount equal to seven-tenths (0.7) of the benefits payable under subsection (a) of this section.

(c)(1) The board of trustees by resolution may provide retirement benefits to a clerk who is incapacitated due to illness or disability and has served for a minimum of seven (7) years.

(2) The clerk may retire with a reduced benefit in an amount equal to seven-tenths (0.7) of the benefits payable under subsection (a) of this section.

History. Acts 1973, No. 432, § 4; 1985, 1989, No. 714, § 1; 1991, No. 499, § 1; No. 1080, § 1; A.S.A. 1947, § 22-917; Acts 2001, No. 1613, § 2.

24-8-318. Additional funding sources for retirement benefits.

(a) In addition to the funds for the municipal court judges and clerk retirement fund provided for by § 16-10-308(a)-(d), if the city council or quorum court determines by actuarial valuation that funding is inadequate to meet the financial objective of paying for current and any projected retirement funding obligations, a municipality or county may also add to retirement funding by city ordinance or county ordinance any or all of the following moneys:

(1)(A) Up to five percent (5%) of all fines and forfeitures collected by the district court or by the city or county for violations of municipal ordinances, county ordinances, or state laws.

(B) This five percent (5%) shall not be taken from:

(i) Court costs collected; and

(ii) Fines and forfeitures collected for violations of state laws that are designated by law as payable to state agencies or entities;

(2) An annual contribution from the city's general fund in an amount recommended by actuarial valuation to meet its projected financial obligation; and

(3) A one-time or occasional lump-sum payment from the city's general fund in an amount determined by the city's governing body, along with any payments or contributions from the county when the city and county share expenses and costs of a county-wide court.

(b) All ordinances passed pursuant to this section shall remain in full force and effect.

History. Acts 1997, No. 571, § 2; 2003, No. 1765, § 31; 2005, No. 1920, § 1; 2007, No. 177, § 11.

deleted "Notwithstanding the creation of the Arkansas District Judge Retirement System on January 1, 2005" at the beginning of (b), and made a related change.

Amendments. The 2007 amendment

24-8-320. Municipal Court Retirement Transition Group.

(a) Currently, the municipal judges and court clerks in Arkansas are covered under numerous and separate retirement plans run independently by each municipal government. Under Arkansas Constitution, Amendment 80, all municipal courts in existence shall be known as district courts and all judges of those courts shall become district judges effective January 1, 2005.

(b) The Municipal Court Retirement Transition Group shall be established to review the transition of municipal courts to district courts and to study the impact this transition will have on those retirement benefit plans.

(c) The group shall consist of:

(1) Three (3) members of the Joint Committee on Public Retirement and Social Security Programs as appointed by the co-chairs of that committee;

(2) The Executive Director of the Arkansas Public Employees' Retirement System;

- (3) A representative from the board of trustees of the Arkansas Judicial Retirement System appointed by the board;
 - (4) The President of the Arkansas Municipal League or a designee;
 - (5) The President of the Association of Arkansas Counties or a designee;
 - (6) The Director of the Administrative Office of the Courts or a designee; and
 - (7) The Director of the Department of Finance and Administration or a designee.
- (d) The group shall determine if any legislation is necessary and shall bring it before the committee at the Eighty-fourth General Assembly.

History. Acts 2001, No. 1613, § 4.

24-8-321. Funds closed.

- (a) The municipal judge and clerk retirement funds defined in this subchapter are closed effective December 31, 2004.
- (b) There will be no new members in these funds after December 31, 2004.

History. Acts 2003, No. 1374, § 2. seq.[Repealed].

Cross References. Arkansas District Court Clerks' Retirement, Judge Retirement System, § 24-8-801 et § 24-8-901 et seq.

SUBCHAPTER 4 — MUNICIPAL JUDGES AND CLERKS — COUNTIES WITH POPULATION OF 150,000

SECTION.

24-8-408. Eligibility for benefits — Clerks.

SECTION.

24-8-411. Funds closed.

Cross References. Arkansas District Court Clerks' Retirement, Judge Retirement System, § 24-8-801 et seq.[Repealed]. § 24-8-901 et seq.

24-8-408. Eligibility for benefits — Clerks.

- (a)(1) Any clerk of a municipal court to which this subchapter applies, appointed by the judge or judges of the court, shall be eligible to receive retirement benefits provided by this subchapter who:
 - (A) Attains age sixty (60) and has served in office as clerk for at least ten (10) years;
 - (B) Attains age sixty-five (65) and has served in office for at least eight (8) years;

(C) Has served in office for at least twenty (20) years, irrespective of age; or

(D) Has served twenty (20) or more consecutive years, irrespective of age, as a city employee for the city in which he or she clerks, with eight (8) or more of those years served in the office of municipal clerk.

(2) If the clerk resigns, retires from office, or is succeeded in office by another clerk, the clerk shall receive retirement pay for and during the remainder of the person’s natural life in an amount equal to one-half (½) of the salary payable to the clerk at the time of resignation, retirement, or succession in office.

(3) The governing body of the municipality or the county may by ordinance provide that after the death of the clerk, the surviving spouse of a qualifying court clerk can continue to receive the retirement benefits under this subchapter until the surviving spouse dies or remarries.

(b)(1) Any clerk of a municipal court who is covered by the provisions of this subchapter and who has seven (7) or more years of service in any position in the office of the county sheriff shall be entitled to have the service in the office of the county sheriff credited as municipal court clerk service.

(2) The service so converted shall be treated the same as if it were service as clerk of a municipal court in the county for purposes of determining eligibility for retirement under the provisions of this subchapter.

History. Acts 1965, No. 19, § 4; 1969, §§ 22-944, 22-948.1; Acts 2001, No. 1613, No. 102, § 3; 1975, No. 637, § 1; 1979, No. § 3.
155, § 1; 1979, No. 660, § 1; A.S.A. 1947,

24-8-410. Benefits.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Assembly, Retirement and Pensions, Judges, Legislation, 2003 Arkansas General As- 26 U. Ark. Little Rock L. Rev. 489.

24-8-411. Funds closed.

(a) The municipal judge and clerk retirement funds defined in this subchapter are closed effective December 31, 2004.

(b) There will be no new members in these funds after December 31, 2004.

History. Acts 2003, No. 1374, § 3. seq.[Repealed].
Cross References. Arkansas District District Court Clerks’ Retirement, Judge Retirement System, § 24-8-801 et § 24-8-901 et seq.

SUBCHAPTER 5 — MUNICIPAL JUDGES AND CLERKS AND POLICE JUDGES — MISCELLANEOUS PROVISIONS

SECTION.

24-8-506. Funds closed.

Cross References. Arkansas District Judge Retirement System, § 24-8-801 et seq. [Repealed]. District Court Clerks' Retirement, § 24-8-901 et seq.

24-8-506. Funds closed.

(a) The municipal judge and clerk retirement funds defined in this subchapter are closed effective December 31, 2004.

(b) There will be no new members in these funds after December 31, 2004.

History. Acts 2003, No. 1374, § 4. seq. [Repealed].

Cross References. Arkansas District Judge Retirement System, § 24-8-801 et seq. District Court Clerks' Retirement, § 24-8-901 et seq.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Retirement and Pensions, Judges, 26 U. Ark. Little Rock L. Rev. 489.

SUBCHAPTER 7 — TIER TWO ACTUAL JUDICIAL SERVICE BENEFIT PLAN

SECTION.

24-8-707. Contributions — State.

24-8-708. Contributions — Cessation upon maximum benefit eligibility.

24-8-712. Eligibility for benefits — Disability retirement.

SECTION.

24-8-713. Retirement and survivors' benefits generally.

24-8-715. [Repealed.]

Effective Dates. Acts 2001, No. 763, § 8: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act should be effective at a time certain which is consistent with the actuarial evaluations of the Judicial Retirement System; that the failure of the act to be effective at a time certain will disrupt the proper administration of the Judicial Retirement System; that the Judicial Retirement System utilizes the state fiscal year as its accounting year for

actuarial purposes; that without this emergency clause this act may not become effective until after July 1, 2001. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 232, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to

avoid undue harm to the members and benefit recipients of the Arkansas Judicial Retirement System that this act should become effective on July 1, 2005. There-

fore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

24-8-707. Contributions — State.

(a) The state, as employer, shall make contributions to the Arkansas Judicial Retirement System of twelve percent (12%) of the active member payroll.

(b) The Chief Fiscal Officer of the State is authorized and directed to make annual transfers each July 1 to the Judges Retirement Fund from the Constitutional Officers Fund and the State Central Services Fund in an amount determined by computing the dollar amount required based on the actuarially determined employer rate in the most recent annual actuarial valuation and subtracting from that amount the statutory contribution amount specified in subsection (a) of this section, and further, reduced by the amount of the court cost revenue transferred to the Judges Retirement Fund from the State Administration of Justice Fund in accordance with § 16-10-310.

History. Acts 1999, No. 399, § 1; 2001, No. 763, § 4.

Effective Dates. Acts 2001, No. 763, § 6, provided: "The revised benefits which are adopted pursuant to this act shall be

extended to current and future members of the Arkansas Judicial Retirement System and to current retired members and current survivor annuitants of the system."

24-8-708. Contributions — Cessation upon maximum benefit eligibility.

When a judge or justice has sufficient service to receive the maximum benefit under § 24-8-713(a), no further contribution shall be required.

History. Acts 1999, No. 399, § 1.

Publisher's Notes. This section is be-

ing reprinted to correct a Code section reference.

24-8-712. Eligibility for benefits — Disability retirement.

(a) Any member under the Tier Two Actual Judicial Service Benefit Plan of the Arkansas Judicial Retirement System who has served a minimum of three (3) consecutive years as a member of the system shall receive retirement benefits if any incapacitating disability as determined by the Board of Trustees of the Arkansas Judicial Retirement System shall occur during any term for which the judge or justice has been elected.

(b)(1) A judgment of disability should not be granted by the board until it is reasonably assured of a judge's or justice's permanent physical or mental incapacity to perform the duties of his or her judicial office.

(2) The board should act only upon proper certification of incapacity by two (2) or more physicians.

History. Acts 1999, No. 399, § 1.

Publisher's Notes. This section is be-

ing reprinted to correct the name of a state board in (a).

24-8-713. Retirement and survivors' benefits generally.

(a) The retirement benefits to be paid an eligible and qualified member or retiree under the provisions of this section shall be an amount equal to three and two-tenths percent (3.2%) of annual salary payable to the last judicial office held multiplied by the number of years of actual service under the Arkansas Judicial Retirement System but not to exceed an amount equal to eighty percent (80%) of salary. The retirement benefits shall be payable for the recipient's life.

(b)(1) Survivors' benefits shall be sixty-seven percent (67%) of the amount of the retirement benefits.

(2) Upon the death of an active judge or justice who has served at least three (3) years, his or her survivors shall receive a sum equal to sixty-seven percent (67%) of the retirement benefits provided in subsection (a) of this section.

(3) Survivors' benefits shall be payable as follows:

(A) If the decedent is survived by a spouse to whom he or she has been married for not less than one (1) year and with whom he or she is living at the time of his or her death, and if the decedent is not survived by any minor child or children, then the spouse shall draw for life or until remarriage a sum equal to sixty-seven percent (67%) of the benefits provided in subsection (a) of this section;

(B)(i) If the decedent is survived by both an eligible spouse and minor children, then one-half ($\frac{1}{2}$) of the survivors' benefits shall be paid to the spouse for life or until remarriage. The other one-half ($\frac{1}{2}$) of the survivors' benefits shall be paid to the guardian of the minor children during the period of minority.

(ii) When all of the children cease to be minors, then the survivors' benefits paid to the minor children shall be paid to the spouse; and

(C) If the decedent is not survived by an eligible spouse but is survived by minor children, then the survivors' benefits, i.e., sixty-seven percent (67%) of the benefits provided in subsection (a) of this section, shall be payable to the guardian of the minor children during the period of minority.

(4) If a surviving spouse who is receiving survivors' benefits under this section remarries and the benefits are discontinued and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(5) No surviving spouse shall be eligible to receive survivors' benefits on more than one (1) member account.

(c) The retirement benefits and survivors' benefits provided for in this section shall be based on the salary for the judicial office last held by the member qualifying for retirement as fixed by law at the time of the member's retirement.

(d)(1) Entitlement to retirement compensation and survivors’ benefits shall be evidenced by the certificate of the Board of Trustees of the Arkansas Judicial Retirement System transmitted to the executive director.

(2) All retirement compensation and survivors’ benefits shall be paid monthly from the Judges Retirement Fund.

(3) All retirement and survivors’ benefits provided by this subchapter shall be paid from the Judges Retirement Fund to be administered by the executive director and staff of the Arkansas Public Employees’ Retirement System.

History. Acts 1999, No. 399, § 1; 2001, No. 763, § 5.

Effective Dates. Acts 2001, No. 763, § 6, provided: “The revised benefits which are adopted pursuant to this act shall be

extended to current and future members of the Arkansas Judicial Retirement System and to current retired members and current survivor annuitants of the system.”

24-8-715. [Repealed.]

Publisher’s Notes. This section, concerning redetermination of benefits, was repealed by Acts 2005, No. 232, § 1. The

section was derived from Acts 1999, No. 399, § 1.

SUBCHAPTER 8 — ARKANSAS DISTRICT JUDGE RETIREMENT SYSTEM

SECTION.
24-8-801 — 24-8-824. [Repealed.]

A.C.R.C. Notes. Acts 2009, No. 654, § 6, provided: “LEGISLATIVE INTENT. “Pursuant to Arkansas Code § 24-4-750(c)(2), the repeal of Arkansas Code § 24-8-801 et seq. by Section 2 of this act does not affect persons who were active members of the Arkansas District Judge Retirement System when the Arkansas District Judge Retirement System was abolished and transferred to the Arkansas

Public Employees’ Retirement System by Acts 2007, No. 177, § 1.”

Acts 2009, No. 654, § 7, provided: “The Board of Trustees of the Arkansas Public Employees’ Retirement System shall promulgate by rule the provisions repealed by Acts 2007, No. 177, § 1, that are subject to the savings provision under § 24-4-750(c)(2).”

24-8-801 — 24-8-824. [Repealed.]

Publisher’s Notes. This subchapter was repealed by Acts 2009, No. 654, § 2. The subchapter was derived from the following sources:

- 24-8-801. Acts 2003, No. 1374, § 1.
- 24-8-802. Acts 2003, No. 1374, § 1; 2005, No. 1022, § 4.
- 24-8-803. Acts 2003, No. 1374, § 1; 2005, No. 1022, § 5.

- 24-8-804. Acts 2003, No. 1374, § 1.
- 24-8-805. Acts 2003, No. 1374, § 1; 2005, No. 1022, § 6.
- 24-8-806. Acts 2003, No. 1374, § 1.
- 24-8-807. Acts 2003, No. 1374, § 1; 2005, No. 1022, § 7; 2007, No. 177, § 12.
- 24-8-808. Acts 2003, No. 1374, § 1; 2005, No. 1022, § 8.

24-8-809. Acts 2003, No. 1374, § 1;
2005, No. 1022, § 9.
24-8-810. Acts 2003, No. 1374, § 1;
2005, No. 1022, § 10.
24-8-811. Acts 2003, No. 1374, § 1.
24-8-812. Acts 2003, No. 1374, § 1;
2005, No. 1022, § 11.
24-8-813. Acts 2003, No. 1374, § 1.
24-8-814. Acts 2003, No. 1374, § 1.
24-8-815. Acts 2003, No. 1374, § 1.
24-8-816. Acts 2003, No. 1374, § 1;
2005, No. 1022, § 12.

24-8-817. Acts 2003, No. 1374, § 1.
24-8-818. Acts 2003, No. 1374, § 1.
24-8-819. Acts 2003, No. 1374, § 1;
2005, No. 1022, § 13.
24-8-820. Acts 2003, No. 1374, § 1.
24-8-821. Acts 2003, No. 1374, § 1;
2005, No. 1022, § 14.
24-8-822. Acts 2005, No. 1022, § 15.
24-8-823. Acts 2005, No. 1022, § 15.
24-8-824. Acts 2005, No. 1022, § 15.

SUBCHAPTER 9 — DISTRICT COURT CLERKS' RETIREMENT

SECTION.

24-8-901. Definition.

24-8-902. Additional funding for district court clerks.

SECTION.

24-8-903. Retirement membership of district court clerks.

24-8-904. Reciprocal system.

Effective Dates. Acts 2005, No. 1022, § 18, as amended by Acts 2005, No. 1962, § 120: Mar. 18, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas District Judge Retirement System that this act should become effective immediately. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during

which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 177, § 15: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this bill affects the structure of the Arkansas District Judge Retirement System and the Arkansas Public Employees' Retirement System and the ideal time to make revisions to the retirement systems is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall become effective on July 1, 2007."

24-8-901. Definition.

As used in this subchapter, "municipal judge's retirement fund" means a local municipal judge and clerk retirement fund established by a local government under § 24-8-301 et seq., § 24-8-401 et seq., or § 24-8-501 et seq.

History. Acts 2003, No. 1375, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Retirement and Pensions, Court Clerks, 26 U. Ark. Little Rock L. Rev. 491.

24-8-902. Additional funding for district court clerks.

(a) A local government that has established a municipal judge's retirement fund shall contribute an amount of money to the Arkansas Public Employees' Retirement System that shall represent the actuarially determined accrued liability for those court clerks and former court clerks who are covered by the municipal judge's retirement fund on December 31, 2004.

(b) The assets of the municipal judge's retirement fund equal to the benefit obligations for the court clerks under subsection (a) of this section shall be paid to the system on January 1, 2005.

(c)(1) If the municipal judge's retirement fund does not have sufficient funds available to pay the benefit obligations for the court clerks under subsection (a) of this section to the system, then the remaining amount of actuarially determined accrued liability shall be paid on or before December 31 each year for up to the next thirty (30) years based on a thirty-year amortization period.

(2) If the amount in the municipal judge's retirement fund is greater than the actuarially determined amount of the liabilities to be transferred to the system, that excess may be retained by the local government for the sole purpose of paying for the retirement benefits of district court clerks.

(d)(1) The accrued benefit used to determine the accrued liability under this section shall be determined by:

(A) Calculating the benefit that the court clerk would be eligible to receive on December 31, 2004, as provided by law before January 1, 2005, if the court clerk was eligible to begin receiving benefits on January 1, 2005; and

(B) Multiplying the amount in subdivision (d)(1)(A) of this section by the number of years of eligible service and then dividing by the greater of:

- (i) The number of years of service needed to be eligible to retire; or
- (ii) The current years of eligible service.

(2) The service years are to be determined under the law before January 1, 2005.

History. Acts 2003, No. 1375, § 1; 2005, No. 1022, § 16; 2007, No. 177, § 13.

A.C.R.C. Notes. As enacted by Acts 2003, No. 1375, § 1, subsection (a) of this section began: "If the Arkansas District Judge's Retirement System is created."

Amendments. The 2007 amendment

substituted "the Arkansas Public Employees' Retirement System" for "the Arkansas District Judge Retirement System" in (a).

Cross References. Arkansas District Judge Retirement System, § 24-8-801 et seq.[Repealed].

24-8-903. Retirement membership of district court clerks.

(a) All municipal court clerks and district court clerks who are members of a municipal judge's retirement fund on December 31, 2004, shall become members of the Arkansas Public Employees' Retirement System on January 1, 2005.

(b) If the local government employing the district court clerk on December 31, 2004, is not a participating employer under the system, then the local government shall become a participating employer under the system for the district court clerk beginning on January 1, 2005.

History. Acts 2003, No. 1375, § 1.

Judge's Retirement System is created."

A.C.R.C. Notes. As enacted by Acts 2003, No. 1375, § 1, subsection (a) of this section began: "If the Arkansas District

Cross References. Arkansas District Judge Retirement System, § 24-8-801 et seq.[Repealed].

24-8-904. Reciprocal system.

(a) Court clerks placed in the Arkansas Public Employees' Retirement System under this subchapter shall be covered by the reciprocal provisions of §§ 24-2-401 — 24-2-404.

(b) There is no reciprocal service between the local municipal judge retirement systems and the reciprocal systems listed in § 24-2-401(3) before January 1, 2005.

(c) In establishing eligibility for a benefit from each system, the credited service under all reciprocal systems is totaled, and the credited service is used in determining eligibility for each system benefit.

(d)(1) Only the credited service under that system and the benefit formula of that system are used in determining the amount of a benefit from each system.

(2) This subchapter is not intended to decrease the benefits earned nor increase the eligibility requirements for members who were participants in a local plan, as authorized by law, prior to January 1, 2005.

(3) The benefits earned and those eligibility requirements shall transfer to the Arkansas Public Employees' Retirement System.

(e) If a system provides a benefit amount that is not dependent on length of credited service, the benefit amount shall be reduced to the proportion that system-credited service bears to total reciprocal system-credited service.

History. Acts 2005, No. 1022, § 17; 2007, No. 177, § 14.

Amendments. The 2007 amendment deleted "whose past service credit was placed in the Arkansas District Judge

Retirement System" following "this subchapter" in (a), and substituted "the Arkansas Public Employees' Retirement System" for "the Arkansas District Judge Retirement System" in (d)(3).

